Exhibit 23

Part 2

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OF

RETAKE

pages. It is broken down into different chapters, if you will, or sections of the report. The introductory materials, Section 2 in particular, can function the purpose of an executive summary if you

wanted to hit the highlights of the test if you will. By its nature it's intended to be an overview. It does not go into great detail about all the things that are good about what Qwest did, and there are a lot of good things that Qwest did during the course of this test.

It instead tends to emphasize that which are still maybe issues that are in question or problems that remain because those tend to be the things in our experience in these matters that get the focus during the live hearings and so on.

So what I propose to do is go through each test section with you and talk with you about what we saw fundamentally, how the company's performance was and answer any questions you might have about the problem areas and the things that are outstanding, or the areas in which we were not able to come to a conclusion for one reason or another. We'll talk about those as we go through that.

Section 12 is probably when most people think about OSS testing, kind of the core of what comes to people's minds initially. It is about pre-ordering, ordering and provisioning. Those activities that a CLEC needs to do in order to understand information about what their potential

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customer has installed, what sort of products and services and features are available to them, to order what kind of appointments they can get, how to reserve a new telephone number for a customer that's requesting a new telephone number, these sorts of things. Those are pre-order type of activities.

Then typically a CLEC will place an order also known as a local service request, LSR or ASR is not as often used of form but another form of order that can be sent in to Qwest asking them to do certain things.

That can be to migrate the customer from in whole or in part from Qwest to the CLEC, to establish new features, to establish new lines. Fundamentally a different set of activities that is very, very, very broad in nature.

This test did not look at, did not test every possible permutation and combination of different things that can be ordered. The scope of what we tested was defined by the master test plan which was collaboratively agreed to, and we as test administrators ensured that what was agreed to collaboratively was tested, and that's across the board, not just for Section 12.

A vast majority of the evaluation

criteria -- and we might talk about what an evaluation criterion is here because it applies to all the tests. It is some specific characteristic or property or something about a particular aspect

of a component in the wholesale operations of Qwest. Be that a document, a manual process, an automated system, something that was one of the test targets about which we are trying to assess whether or not Qwest does what it said it was supposed to do: Whether the document was usable for its intended purpose, whether the process is well formed, whether that process, if it's properly executed, can and does operate in the normal course of business, whether the system that is offered to the CLECs to interface with and the wholesale system operates per the documentation and is functional in the sense that it does what it is described it will do and so on.

So these evaluation criteria typically receive a satisfied if we developed enough evidence that we believe that things are the way that they should be; a not satisfied if we believe that they do not, in fact, operate the way that they should or aren't formed the way that they should; an unable to determine when for one reason or another there just

wasn't enough evidence that we could develop during the course of the test in order to be able to form an opinion as to satisfy or not satisfy.

And then unusual to this test as opposed to other OSS tests which I've been involved, there were a number of the criteria that were tied to performance indicators -- we'll talk about performance indicators in a minute -- that were labeled diagnostic in nature.

In other words, we were to measure as the pseudo-CLEC, measure the service delivered by Qwest to the pseudo-CLEC and to report what we saw but not to form any opinion about whether what we saw was good, bad or indifferent. And so in a number of these tests you'll find diagnostic type performance measures. And I mentioned the master plan articulated what should be tested during the course of this test.

There was also a collaborative -- set of collaboratives that defined a set of performance measures for certain aspects of Qwest's service delivery such as the timely delivery of a firm order confirmation and response to an order, otherwise known as a FOC or an FOC. Did they deliver those things on time, for example, is the type of measure

that we'll be talking about here. And these PIDs or performance indicators were agreed that in certain aspects of the test where we're talking about testing the OSS's themselves, the actual interfaces, that we would apply these performance indicators, collect information about Qwest's performance, and we would say did Qwest's performance meet the benchmarks or the standards that were collaboratively agreed to.

So in a number of cases these performance indicators weren't collaboratively established to have any particular value that Qwest needed to achieve in order to pass. It was just diagnostic

information that the parties agreed that we would collect.

So as one looks at Test 12 which is the ability of Qwest to support pre-ordering, ordering and then provisioning, which are the activities that Qwest does behind the scenes in order to take whatever network elements it needs to change, install, modify and make those things in conformance with what the CLECs ordered, that's the provisioning set of activities.

We fundamentally found that in a lot of respects everything that Qwest should be doing they

were doing in that regard. There were two not satisfieds that came out of that test, and those two evaluation criteria had to do with jeopardy notices.

Jeopardy notice is a notification that's sent to a CLEC when Qwest is not going to be able to meet the delivery date that they had previously committed to in their FOC, their firm order confirmation, and they now need to notify the CLEC that they are not going to meet that date for one reason or another. Oftentimes it has to do with facilities aren't available or there has been perhaps, you know, really bad weather and the people that are doing the installation work are off having to help prepare damage from a storm or something like that, but there is some reason why they can't meet their appointment and they send a jeopardy notice.

So the good news is during the course of

the test we didn't get very many jeopardy notices. The pseudo-CLEC didn't get very many jeopardy notices. That's the good news.

The bad news is, as a result we didn't have enough data to accumulate a record to tell us whether or not they should have passed or not. And because the performance measures in this area were

parity-type measures, which means we were to compare the level of service delivered to retail to the level of service delivered for wholesale, and because there were small sample sizes here when we did what's called a dual test which tests both the hypothesis that wholesale and retail are at parity with each other, and the hypothesis that they are not at parity with each other -- that was a long statistical collaborative but I won't bore you with -- about defining these dual-tell.

When we did the dual-tell analysis on the small volume of data we had, we got conflicting results as to whether they passed or didn't pass. And that was taken to the steering committee -- to the TAG and to the steering committee, and the decision was made by the steering committee to give Qwest a fail in these two cases because of the conflicting results. By definition we get escalated to the TAG. If that couldn't be resolved in the TAG, then it gets escalated to the steering committee. So in both cases these criteria were escalated to the steering committee.

COMMISSIONER BOYLE: Was the question whether or not how they were being provided on a timely basis to the CLEC?

MR. WEEKS: Yes.

COMMISSIONER BOYLE: So the CLEC would go ahead thinking that the -- everything was in order and all of a sudden they discovered that it was not and they weren't getting that notice in time to do anything about it?

MR. WEEKS: Yes. And it's kind of a catch 22 for Qwest because on the delivery date they are never exactly sure whether they are going to be able to get to all of their work for a day. So what they tend to do is be a little more optimistic about yeah, we're going to work real hard and we're going to get everything done today. And if they come to 5:00 and not everything is done, then they missed maybe some appointments.

The alternative was to ahead of time say, you know, we got a lot of work today, we might not get it all done and send out jeopardy notices and then still be able to do the work. So Qwest finds themselves kind of in a catch 22 here. Where if they send out timely notifications, they may, in fact, be able to do the work, so they've gotten everybody all stirred up for nothing. Or the other case may be that, well, just didn't quite get everything done, they didn't send the jeopardy

notices out so they are getting, you know,

penalized, if you will, for not sending out timely jeopardy notices. But they run the risk if maybe, in fact, they don't get all the work done and there are some missed appointments.

So it's kind of problematic for the company in this area, but we had just so few jeopardy notices that we actually encountered during the course of our test, there weren't very many of them, and so just the small sample size said, you know, we kind of can't really figure out whether these really happened on time or not.

COMMISSIONER LANDIS: So I understand --

MR. WEEKS: Did I answer your question?

COMMISSIONER LANDIS: The failing grade that was assigned, it was basically due to a want of empirical evidence here, or we just don't know so we --

MR. WEEKS: It was partly the small sample size and partly the fact that if you analyze the sample that we got with this dual-tell statistical test, you got conflicting results. One of the tests says you passed, one says you failed.

And so, you know, we're going like this, you know. And we agreed ahead of time if we ever got into this situation in the test, we would ask the TAG to resolve it. If the TAG couldn't resolve it, then the steering committee could resolve it.

If the steering committee couldn't resolve it, the executive committee would resolve it. So there was this pre-planned escalation process for breaking these kinds of ties, imparity-type measures where the results were inconclusive in the dual-tell test.

So there was a decision taken by the steering committee to give us a fail and that's where it resides.

There were three unable to determines in Test 12, and two of them, again, related to the jeopardy notice issue. And these are cases where we just flat didn't get enough information. So where the not satisfieds came from the timeliness of them, the two unables are -- that are related to jeopardy notices came from sort of the absence of not getting. So one is did you get it, yes or no, and that was an unable because we didn't have enough data. And the other was, on the ones you got, did you get them on a timely basis. So it's -- they are both related to jeopardies but one is did you get it

or not get it. And if you did get it, did you get it on time. So the not satisfieds were did you get it on time, and the two unables -- two of the three unables were did you get it at all.

COMMISSIONER LANDIS: In your opinion, Mike, are these the type of problems in your opinion as the CLEC, are these the kind of problems that could be managed or fixed in the event that a problem does exist? Then once you get the evidence there is a problem somehow getting that --

is this a kind of problem that can be fixed, one, and, two, if you know, is this a PID that's going to require that -- will result in a penalty payment if a level performs --

MR. WEEKS: I'm not prepared to comment on the PID because I have not followed that closely and there are others in this room who are much better able to answer that question better than I.

But certainly -- and I've tried to give you a hand earlier in my previous comments about sort of the catch 22 Qwest finds itself in here. So the answer is can you fix this problem, yes. The conservative things to do is just send out jeopardy notices if there is any doubt, and, therefore,

people are getting jeopardy notices and they can get it therefore on time.

Then Qwest might be in a situation where it actually has the capacity to get the work done and sort of sends you a notice that it didn't need to send you. That would be the fix quote, unquote that would result in CLECs being notified of the potential at least for the appointment not being met.

But it might also cause a lot of aches in the CLEC community because they are getting these notifiers and the work, in fact, happens on time.

So it's a troublesome area to decide from a policy perspective how to deal with this if you're

an ILEC because you want to fulfill all the orders that you possibly can, but you also have some obligation to give people a head's up if you can't. So it's not easy on either side of this fence.

Clearly if you're a CLEC and you have a customer out there and your wholesaler is not giving you -- meeting their appointments, that can create a customer at will rather quickly for you. So I think this is something that probably, you know, you guys need to watch and the parties need to watch to understand how to come down on this issue of, you

know, which is the lesser of the two evils.

The other unable to determine in this area had to do with a particular observation that we put in place. It's -- the criterion is 12-11-4, and it has to do with measuring performance results for pre-order and order.

And there was an observation out, number 3110, 3110, where we raise certain issues and Qwest chose not to do a retest on this. And so as a result we couldn't develop enough evidence to understand conclusively whether the problem had been resolved, had not been resolved, was fixed or not. So this was one of those where we just didn't have enough facts in order to form an opinion after having previously raised some potential issues.

MR. POST: Mr. Weeks, did Qwest give you a reason as to why they wouldn't retest?

MR. WEEKS: All Qwest's reasoning, if you will, is documented in their responses to that.

That's the only knowledge I really have that's publicly available to us. I don't have any insight beyond what Qwest has formally communicated to us. We haven't had any sidebar conversations or anything where I understand intent, for example. So I would point you to in all these observations and

exceptions whether it's been a closed/unresolved or closed/inconclusive to both the comment section in our report for that particular test criterion and/or back to the web site where the traffic back and forth on the observations and exceptions is. And that's probably as good information you're going to get unless you ask Qwest to explain to you a little more fully why they did what they did. I know what they did, I know less about why they did what they did.

MR. POST: I understand. Thank you.

MR. WEEKS: There are eleven diagnostic measures in Test 12. I would encourage you to just peruse through those and look at the level of service delivered by Qwest, and, you know, sort of compare and contrast that to the information that gets reported to you on a monthly basis for these performance indicators so that you can determine for yourself whether a level of service delivered to the P-CLEC in the test is comparable with the level of service delivered to real CLECs every day day in and day out.

And also look at the absolute values of

those diagnostic measures to see if they fit with what you think you're comfortable with because

that's -- the beauty is in the eye of the beholder kind of thing.

These are criteria where normally in other OSS tests we probably would have given a satisfied or a non-satisfied or something like that. Because of agreement by the TAG before the start of the test that these would be diagnostic only, we only presented information. So please don't misinterpret my comments as saying these are necessarily problem areas, I'm not saying that. I'm saying I think you should look at the ones that are labeled as diagnostic, and just because we have not gone through the same sort of testing rigor on those that we have on the other ones that have gotten a sat or a not sat or an unable, so you might want to look at that and decide if you like what you see.

That's kind of it for Test 12. There were, you know, a lot of satisfied criteria obviously, over 50 in this test. So it was a big test, it was a long test, it was involved. There was a lot of work in this test in terms of observations and exceptions and fixing problems and issues and so on, and so it's a fairly lengthy or meaty section of the report. And I think in general it gets a lot of attention from CLECs and others

because this is their primary interface on a day to day up basis.

Any questions on Section 12? I won't cover all these at the same level that I have. I just wanted to make sure I covered that one off because it's a fairly important one.

COMMISSIONER BOYLE: So what you're saying is you didn't give an insight as to why something failed, you just said it failed or passed?

MR. WEEKS: Yeah. The style of these tests is what we call sort of black box test. We sit on the outside much like a CLEC would and we do the activities that a CLEC would normally do. We send in a pre-order, we send in an order. All we know is it worked or didn't work based on what we expected to happen based on Qwest's public available documentation.

So they said if you fill out the order this way, this is what you'll get, so we did that. It's like walking up to Burger King and I want a number seven, you know. And so we get a sack of stuff back and we look at it. You know, did they fill my order right. You know, do I get the cheeseburger, fries and Coke. Yeah, I got the cheeseburger, fries and Coke. It looks like they

did okay.

If there was some reason that there was something wrong inside the sack and we didn't get what we thought we were going to get, all we told them through the exception and observation process, here's what we did, here's what we got, it's not

what we expected, what's the deal.

It was their job to go back and look at what -- you know, were we wrong and so often times we did things wrong. You know, we misread the business rules or we misinterpreted how something was supposed to work. And in those cases we would make the corrections just like a regular CLEC would and send the order back in and a lot of times it would work.

In the times when it did not work and Qwest says, yeah, you're right, it didn't work, there was usually two different ways that it could be broken. One is the documentation was incorrect, and they would fix the documentation and then we would re-execute using the new documentation. Or they would say the software was wrong, the systems were wrong, the OSSs were wrong, and they would make some changes on their side of the fence, and they would tell us, okay, we're ready to go again and we

would retest.

We never cared by design what the root cause of the problem was. It was largely irrelevant to us as to what Qwest had to do to fix the problem.

What we were driving towards was having documentation and systems and processes and methods and things that all operated the way they were specified to operate without getting all bogged down into why they were broken or what they actually had to do to fix them.

So the only real insight that we have into

what was wrong or what they did to fix it is whatever they shared with us in their formal written responses to us which are available for your inspection, and that's all we have. We have no other knowledge above and beyond that.

COMMISSIONER BOYLE: Maybe this puts you on the spot. Of all the sections, Section 12 would you say that's probably the most critical?

MR. WEEKS: I think there are many of these that are very critical. I think there is probably a dozen of these that if there was a major meltdown in any one of them, you would have problems with competition. So I would not overemphasize 12 even though a lot of people do. You know, when they

think about the thing, that's what they think about a lot, but I could point out other ones that go through -- as we go through here that, you know, if there were major problems in this area, then, you know, CLECs would have major problems all day every day.

COMMISSIONER BOYLE: If you would it would be helpful to the commission as we go through it.

MR. WEEKS: Sure, no problem.

Test 12.7 was the loop qualification test. And what we were trying to do in that test is loop qualification is the process that CLECs use to get information about loops that they might want to do DSL with. You need to know certain engineering

properties and characteristics because there are different types of DSL, and different types of DSL requires different configurations in the network, in the engineering of the network.

And so this is the ability of a CLEC to sort of ask about or test whether or not a loop might be qualified for DSL. And this was a test to look at whether the way the retail operation, the people that are helping retail customers find out if they are DSL qualified is functionally equivalent at

parity with the way CLECs can do it through the wholesale operation. And the answer is they are functionally equivalent. There is no material difference, no advantage retail has over wholesale in the ability to get loop call information.

Twelve point eight (12.8) was the POP which is pre-order information manual order processing evaluation. This is an evaluation that looks at whether the electronically-placed orders, orders that go in through either graphically or through EDI transactions rather than ones that are faxed in through a manual interface. And there -- all of the evaluation criteria were satisfied except there was one unable to determine on Test 12.8, and this had to do again with the closed/unresolved on observation 3110, and this has to do with adherence to process.

We developed in 3110 some evidence that suggests that maybe things don't always work the way they are supposed to in this manual ordering process

and Qwest chose not to do a retest in this area. So that's the one unable in that case.

Test 13 is order flow through evaluation. Flow through is the concept that talks about electronically-placed orders that can flow from the

wholesale air base where the CLEC presents them all the way through to the service order process or the SOP without human intervention. If that can happen sort of untouched by human hands, then what happens once it gets to the service order processor is internal service orders are written by Qwest. One or more of those are written to go do whatever needs to get done as a result of the order.

We all know how human processes are. If a human being touches it, it's more likely to be wrong often times physically than if a computer does it. A computer can do things wrong all the time. Once you teach it how to do the right things, it will do the right things. Human beings even though they can be taught to do the right thing don't always do the right things even though they know how. We typically see in all the ILECs a higher error rate in orders that are touched by human beings than orders that are closed or typed orders.

And this Test 13 which is the order flow through evaluation was an attempt to determine whether what Qwest's documentation says flows through -- in fact, does flow through, and whether there are certain characteristics about flow through

in terms of the performance of flow through orders

and so on, whether those are within the norm.

This is one of those tests where only one of the evaluation criteria out of eleven was satisfied. The other ten are all diagnostic, so this is -- in other OSS tests there would have been ten satisfieds or not satisfieds sitting out there. In this most of the performance measures around flow through are diagnostic in nature. So this is another one where I go take a look at it given the importance of flow through, make sure you're comfortable with Qwest's performance not only during the test but, you know, in the normal course of business on the area of flow through because we evaluated very little of that.

MR. POST: Can you give the commission a feeling as to why the parties may have agreed to treat these diagnostic and not have you make that determination? Is there a short answer to that question?

MR. WEEKS: Again, that speaks to intent and I probably would be better off not to answer that question just because I would be trying to put words in other people's mouths.

MR. POST: Can you direct me to any source that the commission if they so desire could

get a feel for that?

MR. WEEKS: I certainly don't recall off the top of my head whether those proceedings

that led to those decisions were transcribed or not. I don't recall. I just don't remember.

So I think probably some sort of information or data request either to Qwest and/or to the other parties to seek their recollection of the reasoning, the intent behind this would be the right thing.

MR. POST: Okay. Thank you.

MR. WEEKS: Test 14 is another one of those sort of big tests that gets a lot of attention in OSS test hearings and so on. It's -- 14 is the provisioning evaluation.

What we're doing here is looking at those various aspects of Qwest's internal methods and procedures that they use for doing things like coordinating hot cuts and other types, NDR, co-location, you know, major types of provisioning activity. And what we're trying to do here is understand whether those procedures are well formed and whether Qwest follows those procedures or not.

And in this case the answer was while we had some rocky starts here, we did get to the point

where the vast majority of the evaluation criteria here were satisfied. There are only four that are in the not satisfied situation for the Test 14.

I'll draw your attention when you look at the detail of the report that there are -- 14-1-10 which is dark fiber. Dark fiber was one of the areas in the test when we started the test that we

weren't sure we were going to get enough commercial observations. This isn't something pseudo-CLEC did. This is something we watched real CLEC orders here because the pseudo-CLEC was not facilities based at all. And so we wrote exception 3010, 3010, suggesting that there might be some problems with the methods and procedures in this area, and unfortunately through just the happenstance of real world business events, we weren't ever able to come back and see enough commercial observations after we wrote the exception to prove or disapprove whether the issues that we had raised had gotten resolved or not.

So this was a case where we started off on the right foot, we found a few problems and we just never could get enough real orders to go see if it really looks like it works or not. And it was nobody's fault, there is just no real world

customers were placing these things.

Fourteen, dash, one, dash, fourteen (14-1-14), the same kind of concept, exception 3104. This has to do with EELs. And we wrote 3104 and then subsequently we just never could get enough commercial observations to figure out whether the problems have been resolved or not because there wasn't enough business flowing through EELs during the course of the test.

The other two, 14-1-34 and 14-1-36 are PID problems, performance issues associated with PID OP-4C which is the installation interval. One of

them is for business POTS and the other is for UNE-P.

We had written exception 3086 which is closed/unresolved which is part of the record here, and then also exception 3120 which was subsequently closed.

COMMISSIONER LANDIS: Is one of the problems there, Mike, how you count the dates?

MR. WEEKS: Yes.

COMMISSIONER LANDIS: You're counting -- Qwest was counting days Saturday and the others weren't and --

MR. WEEKS: And 7:00 at night and all

of this. Yeah, that's the conversation that we had where the business rules as they are defined ultimately needed some revision. Some of Qwest's software in the way they were calculating things needed some revision, and so we ultimately got happy for the automated orders that things are being recorded right and calculated right. There remained a question on some of the manually-handled orders whether there was some human error again in recording dates, and Qwest decided not to retest that issue because it happened literally the last week of the test. And they elected not to retest that manual ability to write down the right app date on the thing and that was a decision that they took.

So the original exception 3120 we closed satisfactorily and we raised 3109 -- observation

3109 and observation 3110. Observation 3109 raised the question of why some orders did not flow through that we believe should have flowed through. It turns out they didn't because there were pending orders in the service order processor which causes the orders by definition to fall out. So we got happy with that, that was fine. They should have fallen out and they did. We didn't expect it but it's because we didn't understand that there were

pending orders in the service order processing.

But 3110 -- exception 3110 -- or, excuse me, observation 3110 we ultimately just closed/unresolved because Qwest chose not to do a retest, so those were the four not sats.

There were five unables in Test 14. Three of them had to do with OP -- PID OP-6A which is -- I'll give you the criteria number, 14-1-37, 38, 39.

We just didn't get enough data during the course of the test. This was delay day calculations for orders that got delayed. The good news is we didn't have that many orders delayed. So that's kind of good news/bad news. The good news is we didn't have the business problem this PID is intended to detect. But as a result of that, we weren't able to do any calculations and make any measurements, so that's a good problem to have I guess.

Fourteen-one-forty-three (14-1-43) was interval for pending orders delayed past due date, OP-15. Again, we didn't have enough of that of the

test to have good data on that so we just couldn't come up with an answer.

And 14-1-44 fundamentally says that Qwest-produced measures of ordering and provisioning

performance results are consistent with what we tracked on our side. And this is observation 3110 I referred to a moment ago with the manual orders that didn't get the dates recorded correctly on that. So that was unable on that because we wanted -- we would have had to have done a retest in order to change the record from not satisfied to something else. I say not satisfied, I meant unable.

There were only two diagnostic PIDs in 14 so you might choose to look at those. They have to do with coordinated hot cut intervals and unbundled loops and coordinating cuts on time. So those were diagnostics.

Fourteen seven (14-7) is a provisioning process parity evaluation. This looks at the basic processes that Qwest uses in their wholesale operations to do provisioning and compares those to the similar operations for retail and says are they equivalent. Does provisioning happen any better or differently for retail than it does for wholesale. And the answer is no because they are fundamentally the same processes. It's not two instances of a simpler process, it's literally the same process, the same people, the same trucks, the same techs that are supporting -- doing things for wholesale

and doing things for retail. So it's what in other jurisdictions I've heard called parity by design.

Fourteen-eight (14-8) is the -- all the evaluation criteria in that area were satisfied. 14-8, provisioning coordination process is the ability of the wholesale operations to coordinate with the CLECs to do coordinated-type provisioning. All of those evaluation criteria were satisfied.

Test 15 is the POP volume test. This is where we send -- we do some analysis, try to predict what future volumes that are going to go through the interfaces are and then run a bunch of transactions. We take what the current volumes are, we estimate what we think the high water mark will be at some point in the future, and we add transactions on top of the real production to bring the total up to what we think it might be in the future. And there is a normal day, try to simulate what normal goes on; a peak day which says it's a really busy day like all the students are going back to school, you know, in the fall or something; and then a stress day which is not truly a stress day but it's just more peak, if you will.

It's expected that Qwest will pass a normal and a peak day. The stress test is just

diagnostic, how does this system behave in volumes that are very large. For example, peak day is about one and-a-half times the normal day and stress is about two and-a-half times the normal day. So Qwest

passed these tests handily. There were just a minimal number of problems in this area. In fact, they passed this test faster than anybody has in any other OSS test that we've been involved in. So the volume test was executed rather quickly in the overall scheme of things.

We're sort of moving now out of pre-ordering and ordering provisioning tests, you know, that I've talked about so far. We're now going to start talking maintenance and repair, M&R.

Not unlike the ordering systems and pre-ordering systems that interact between the CLECs and wholesale, there are a set of systems that are available to CLECs to turn in trouble reports. A customer calls, I'm having trouble on my line, I don't have a feature I'm supposed to have, I ordered call waiting, I don't have call waiting, whatever the problem is.

CLECs then have a variety of techniques that they can use to pass this information on to Qwest so that Qwest can try to diagnose what the

problem is and fix it. CLECs also have under certain circumstances responsibilities to help do the diagnostics, run certain tests themselves especially if they are a facilities-based CLEC prior to calling Qwest, but there are several different interfaces to do this.

One is called CEMR and Test 16 is the functionality of CEMR. CEMR is kind of a graphical

user interface, kind of a web based sort of thing that you use to turn in trouble reports, check up on the status of trouble tickets that have been previously -- trouble reports that have been previously turned in and so on.

And what we are trying to do in the CEMR functional evaluation is fundamentally say does this piece of software work and how does it compare to the similar software used by the retail operation and are they kind of functionally equivalent. And Qwest did well on this.

All but two of the categories -- criteria were satisfied. There was one not satisfied on Test 16. This was -- during the volume testing we did do a volume test of CEMR. The ability to go in and modify a trouble report after it had already been processed. It's the only aspect of the volume test

where Qwest's performance did not meet the standards, the benchmarks that we were looking for. The margin to this wasn't substantial. Qwest decided to take a closed/unresolved on exception 3107 and I just say, you know, move forward. We think we passed that test well enough and this one little thing that doesn't work right we don't want to pursue it any further. So that was exception 3107 and it was criteria 16-3-5. There was one diagnostic PID associated with that and I'll let you look at that at your leisure.

Test 17 was the other electronic interface for turning in trouble reports, and that's called

MEDIACC. It's also known as electronic bonding. This is where there would be some trouble reporting system that the CLEC has on their own system, on their own OSSs that you can hook electronically to Qwest's systems through this interface and report troubles that way instead of through the GUI. There were only eight evaluation criteria there and all were satisfied.

Test 18 is maintenance and repair, end-to-end trouble reporting processing. This is looking at Qwest's processes not for turning in trouble reports but the actual methods and processes

that they have in place behind the scenes, so to speak, to actually fix problems once they've been turned in.

Of that, ten of the criteria were satisfied, there were only two non-sat and one unable. The two not sats on 18 -- the first one is 18-6-1. It was a closed/unresolved on exception 3055, 3055.

Here we would look at the trouble and we would look at the codes that a field technician codes on the trouble report that says here's where the problem was and here's what was wrong and here's what I did to fix it, in effect, so it's the closed out codes. And in not all cases were those codes that were being put on by the field techs were accurate. And Qwest and KPMG Consulting chose to agree to disagree on the significance of whether

those codes not being 100 percent accurate was a problem or not, so they chose not to move forward with that.

And in 18-7-1 this was a case where we had purposefully introduced troubles into lines and then went back after the fact to see whether they had been repaired properly or the way we expected them to have been repaired. And when we looked at what

had been reported for what the fix was and what they had done, it didn't always match the trouble that we turned in, and so we came to Qwest on that. Again, it was an agree to disagree. They didn't agree that we had properly represented the issue and the situation and so they chose to take closed/unresolved on exception 3058.

So that was the case of we went and did some work, we had expected results, we found something different than what we expected, Qwest said, yeah, you're right, it is different than you expected but we disagree that it's a problem.

Eighteen eight (18-8) was the end-to-end maintenance and repair process evaluation. All the evaluation -- I skipped over 18-7, I'm sorry. I'll finish with 18-8. It is the M&R process evaluation. It's looking at the process itself. All the evaluation are satisfied there.

Eighteen seven (18-7) which is the work center work support process, this is the help desk, if you will, for maintenance and repair. If CLEC has a question about a maintenance and repair issue,

this is where they call to try and say I'm not getting what I need or I don't understand why I'm having a problem. So all those criteria as well.

MR. POST: Mr. Weeks, if I may interrupt. On 18 did you cover or am I misinterpreting something, the unable to determine? Did I miss that or is there not one?

MR. WEEKS: There is an unable to determine. I apologize for skipping over that. It is 18-6-3 which is close out codes. There is a closed/inconclusive on exception 3053 where we just didn't have enough result to draw a conclusion one way or the other.

Thank you. That's kind of the M&R world. Any other questions about M&R?

MR. POST: Not specifically about M&R, but could you, I guess, let the commission know was it your understanding that the CLECs and Qwest and the testers agreed going in to the test that it was expected or if it was not expected to have some of these issues closed/unresolved, essentially that you would agree to disagree on some of these issues, was that an anticipated going in?

MR. WEEKS: I don't know if it was explicitly documented in a document I can point you to. Certainly as testers we've seen this in every jurisdiction we've tested it so I expected it to happen. I don't know what the expectations of other

parties were.

It was always agreed that it was a military-style test which is test until you pass as a general principle. It was understood ahead of time that there were likely to be at some point near the end of the test a set of handholds is the way I usually characterize it of issues that might not be resolved and that regulators and others would make a decision to stop the test even though there were issues that were unresolved and take those under regulatory advisement and move forward.

That was certainly the pattern established in New York and everywhere else except New Jersey. New Jersey is the only OSS test that I'm aware of that went to the commission with all sats in it. Every other test has had one or more non-sats and one or more problems or issues in it, and in all cases that I'm aware of, at least one case where there has been an agree to disagree between the tester and the ILEC.

So I think if it wasn't an expectation, it should have been an expectation if people had been paying attention to what else was going on around the world.

Any other questions in that area?

MR. POST: That's it. Thank you.

MR. WEEKS: The next area that we typically talk about is billing. Test 19 is daily usage test. This is what's known as DUF files. These are the files that are created by the

wholesale operation and passed to CLEC that contain the equivalent of the call detail records out of the switch. So customers, people make calls, a switch is recording that information, the switch has forwarded that information on call detail into a central location. They figure out who owns that circuit and they route that calling information, that call detail information in the form of a DUF file to industry standards and pass that to the CLEC. So if the CLEC is doing any kind of usage-based billing with their end customer, they have the call information they need to do that with.

We struggled for awhile to get the DUF test satisfactorily concluded, but it did ultimately work and all the evaluation criteria in that area are satisfied.

Test 19.6 is the daily usage feed returns, production, distribution process and so on. All the evaluation criteria in there were satisfied except for two. The two that weren't satisfied I'll give

you those numbers, it's 19.6-1-17 and dash 19, have to do with the process of DUF returns. This is where if I got records in my DUF file that didn't belong to me or that I didn't recognize or that I didn't want, I would have some way of returning those to the ILECs and I don't need this.

When we have problems with the DUF files, we wrote observations and exceptions. We gave those to Qwest as an artifact of the test. We didn't

return that usage back through the formal process that CLEC might use.

Now, it's my understanding from folks that this is not an often used process by real CLECs in the real world. They would do something similar to what we do. They would call and say I've got a problem with my DUF file. Qwest would investigate it. If they found that there was a problem, they would send a new DUF file.

So the point of fact CLECs in the real world don't really return records, they just get new files, replacement files, so don't consider this a big issue.

Test 20 is another one of those kind of big ones, the DUF and the billing, so 19 and 20 are two of good tests sort of in the billing world. It

really looks at the bills that are produced that are given to the CLECs that they have to pay, and all the evaluation criteria are satisfied in this area. So this is the accuracy of the bills received by CLECs for things like recurring charges, nonrecurring charges, those kinds of things.

Twenty point --

COMMISSIONER LANDIS: Do you want a break?

MR. WEEKS: No, I'm fine.

Twenty point seven (20.7) is the bill production and distribution process evaluation. This looks at how Qwest actually manufactures the bills that it sends out. So Test 20 looked at the

bill just is it an accurate bill, yes or no. And Test 20.7 goes behind the scenes and looks at the process Qwest has in place to produce those bills and said are they well formed.

All the evaluation criteria here were satisfied except for four unables. And the four unables are 20.7-1-3, 4, 5 and 9. And fundamentally the issue here is that so much of the billing process is automated, it's inside the computers. And these test criterion talk about how well formed this process is and whether Qwest adheres to their

processes. Well, you can't tell what's inside the computer. What you can tell is if it doesn't work.

If I have a bill balancing or a cycle balancing type of control that I put -- think of a manufacturing process. I'm manufacturing the bills and then I've got a quality assurance process on the back end to see if it looks like the checks and the bills coming out to see if they are okay.

Well, if I'm sitting over here looking at bills and I get an accurate bill, I can't tell whether it was manufactured correctly, and, therefore, QA had nothing to do, they got the afternoon off, and that's why the bills are right. Or whether the bill was wrong and the QA process found that it was a problem, kicked it back, made them fix it and then send it on again.

So if I get a bad bill, I can prove the QA process doesn't work, but if I get a good bill, I

can't prove the QA process did work because it may not have run at all, it may not even exist. It just may be the bills are created right the first time. So that's why these are unabled.

They are unabled because I got controls embedded in systems that I can't prove are working even though I can prove they are not working if they

are not working, so that's what those four are about.

Test 22 we're now going to move out of billing and get into sort of a collection of sort of cats and dogs that don't fit nicely into a pile.

There is the Test 22 which is the CLEC network provisioning test. All the evaluation criteria were satisfied here except for one. It was unable to determine. It was 22-1-10, defined processes for NDR implementations are adhered to. There just weren't enough NDR going on at the time for us to watch Qwest do the process to see if it worked right. We're not in the real world, can't tell you.

Twenty-three is another big hitter. It's a very passionate issue in Washington, very passionate issue with most of the parties. It's change management. I'm sure you guys hear a lot about change management. There are eleven criteria in the satisfied criteria, seven in the unable to determine category.

And probably the way to tell this story is that when we first started this test Qwest had one

change management process in place. It then chose to introduce a new process that's called CMP. The

old process was CICMP.

CMP is a radical improvement over the old process. That's the good news. The bad news is it's not quite soup yet or aspects are not quite soup yet. There are still parts of it that are being defined by the parties in a very collaborative way, and so a number of these unables were simply because either they are still defining how certain aspects of change management are going to work, therefore, there is nothing for us to inspect, or the definitions for how it's going to work in the future are recent enough that we haven't been able to watch the process go through an entire life cycle with a new release of the software.

So we can read the process, we can say, yeah, it looks like a good process description. We've seen bits and pieces of it work but we haven't been able to watch a brand new release go all the way through the process to be able to validate that all the stuff is really going to work on a going-forward basis.

COMMISSIONER LANDIS: You're satisfied that there has been a significant improvement in this area? Is it your opinion that there is a genuine willingness on the part of Qwest

here to continue that process? Perhaps you're not

the one to -- but based on what you're saying, clearly you're saying the result --

MR. WEEKS: I'm definitely seeing a second process that's much better, more richer than the first process. I wouldn't be able to speak to Qwest's intent to the future for performance, but I can certainly describe what we've seen.

And what we've seen is a significant amount of work that's gone in by all parties, not just Qwest to -- trying to make this change management process robust, responsive in the CLEC community and some of their issues and some of their objections to the previous process and so on. I definitely can see a lot of progress in this area.

And because the -- because this process of change management is also going to be an evolutionary process, it's not going to be static. It's not going to be we're going to get it right and it will be right forever. It will continuously change more, but there were certain core aspects of it that just weren't quite gelled enough for us to hold up our hand and say, yeah, this looks okay or, yeah, I've seen this run and it really works, and that's why some of these are the unables.

Kind of as you read the report you can kind of look at the unables and get a feel for why you couldn't say any more than you did. Usually what we'll say is if we've seen the definition of the process and we like what we see we'll say that. If we haven't seen it operate, we'll also say that

because there is kind of three aspects to any kind of process; that it exists, that it's well formed and that we can see some evidence of adherence. And unless it gets all three of those, it doesn't get a satisfied. So if it's lacking any one of those three, it either gets an unable or a not sat. So given its evolution, it's just not quite far enough down the road to go across the board and say satisfied.

COMMISSIONER BOYLE: This was one of those issues that brought a great deal of controversy and, for lack of a better term, hair pulling at one of the ROC meetings?

MR. WEEKS: Yes.

COMMISSIONER BOYLE: And so this is something the commission should pay special attention to not in the passive but to ensure that the CLECs are being properly informed when anything takes place in a timely fashion?

MR. WEEKS: Yeah. It's -- you asked me to highlight areas that, you know, can have the potential to make a big difference in competition. If things are broken in this area and interfaces are being changed without sufficient notice for CLECs to be able to change their respective systems, documentation is being changed and correct notifications aren't taking place and orders are not going through and falling on the floor, you know, there can be a problem here.

There can also be another problem here that some of these get to and that is the whole issue of a testing environment, stand alone testing environment where not only do I need to understand what the definitions of the changes are going to be, in other words, what's the documentation say so I can go change my documentation and I can go change my software. I need a good fighting chance to test that thing before it goes into production so that I don't get an out-of-service condition because the interface changes tomorrow morning and I haven't had a chance to thoroughly test my side of the fence. Qwest's side works fine but I haven't had a chance to test my side of it and test it to make sure it works. So it's not just that the specifications are

well noticed and put out in advance, it's that once that is there and I've got a chance to assimilate those changes and make whatever I have to make in order to change them on my side, I get a thorough and adequate chance to test all that stuff before I have to do it live with real customers. And that's the other aspect.

COMMISSIONER BOYLE: So an example of that would be -- there was a controversy earlier this year on customers being frozen.

COMMISSIONER LANDIS: Local PID freeze is one and LNP, local number portability was one.

COMMISSIONER BOYLE: PID freeze is what I'm talking about. A local freeze of

customers. Would that be an example of wherein the CLEC would have to be notified and understand the process?

MR. WEEKS: Yeah, if Qwest is going to change their process. There is two parts of the CMP I haven't doved into the details here. There are two fundamental change management processes, not one. One is over the definition of the systems and the documentation related to those. Then there is the process in product CMP. This is where I talk

about the other processes Qwest has not related to software of how to do business with them and what products they offer and how those products are defined and so on.

Any of that -- any of the aspects of my interaction with Qwest because Qwest is my supplier -- if rules about what products are offered, how I have to order those products, what the details and the features are, what the charges are, if any of that stuff changes and I don't know it, then the risk is I will for some period of time until I figure it out fix it, I will have a problem doing business as usual. And that is the --

COMMISSIONER LANDIS: You look like a clutch to your customer.

MR. WEEKS: You could look silly to your customers and maybe not. Maybe the nature of the change is such that I can cover it up with work arounds and everything else so it may not be

catastrophic, but it certainly -- in the normal supply chain management you want these things to work well. You want the suppliers and the customers to be synchronized very closely with each other and to not have surprises. That's what you're trying to work towards here in this whole change management

area, no surprises.

MR. POST: Mr. Weeks, given what you've seen then in the area of change management and improvements made by Qwest, do you have an opinion as to whether the processes being designed by Qwest and being collaboratively worked on, does that have the chance of succeeding and getting success given time to work?

MR. WEEKS: I think the only things that keep that sort of thing from working is intent and will of parties. The problems that are being solved are not such -- are not so intellectually challenging that they can't be dealt with. The problems are soluble. It really gets down to the spirit and the will of the organizations that are involved in the collaborative process because it's a two-way street. There are two sides to the conversation. And both need to be heard and both need to cooperate and neither is going to get 100 percent of what they want every time. So if there is the right set of -- if there is a right environment and the right spirit and the right intent and the right will, the problem itself that they are trying to solve is very soluble.

MR. POST: So you haven't uncovered

any fatal flaws to their process?

MR. WEEKS: They would be not satisfieds if we said that there was some aspect of the process that's in place that is fatally flawed. Now, I'm going to point out there is aspects we haven't had a chance to fully evaluate, that's the unables, so that would be my only caveat to what I just said.

COMMISSIONER LANDIS: Do you think it's important that if this process should break down going forward that it's important that this commissioner and the state commission be able to immediately address the problem and not have to wait for a period of time, let's sort it out, we can get right to the -- much like our chairman alluded to in the PID freeze and get on it?

MR. WEEKS: I guess I'm for sort of strong regulation, and I think if it becomes evident that the parties for whatever reason have ceased to cooperate in a manner that's consistent with competition in the State of Nebraska that you have an obligation to jump in and do what you can do as regulators to see that the parties come back to the table and do what needs to be done so that the consumers are served.

Twenty-four point three (24.3) is account establishment and management review. This looks at

the processes Qwest uses to bring a new CLEC online, so to speak, to establish an account team, have them understand what products and services Qwest offers, pick from all of the various flavors and combinations and get joint interconnect agreements or S caps or whatever they are going to use as their formal agreement and then service that on a going-forward basis.

The rest of the test these are all what we call RMI, relationship management. There is CLEC forecasting. This is a kind of an oxymoron process. CLECs are naturally suspicious about giving competitive information to Qwest or any other ILEC that's going to -- for fear that it will trickle over to what's going on in the retail operation and now my competitor knows what I'm doing and all that sort of stuff. So this is kind of a catch 22. Because if Qwest doesn't understand what CLECs are planning to do, they can't drill out the right network, they can't do the right planning, they can't do the right forecast, they can't do the right capacity management, but there is a built in suspicion and distrust here that keeps that process

from working probably the way it would if we had a different competitive landscape.

MR. POST: Mr. Weeks, I apologize. I may have missed it but you just covered 24.4; is that correct?

MR. WEEKS: Twenty-four point three (24.3) was account management and 24.4 is CLEC

forecast.

MR. POST: On 24.3 did you cover the unable to determine?

MR. WEEKS: No, I did not. Twenty-four point three, dash, nine (24.3-9), this is -- the criteria says customer calls are returned per documented/stated intervals.

What happened is Qwest's process for acknowledging and notifying customers of certain events changed very, very, very near the end of the test, and the intervals and standards that were established we didn't have a chance to go back and observe them following this process.

MR. POST: Thank you.

DR. GRIFFING: Mike, which way did they change, did they become more rigorous?

MR. WEEKS: I think it's that they didn't exist and they established them. That's my

recollection subject to check. I could go see if the report has any more information on that.

What was that, 24.3-9. I'll read you the words. KPMG Consulting observed deficiencies in the Service Management procedures for logging CLEC correspondence, and for tracking and resolving CLEC issues, and formally raised this as an issue.

KPMG Consulting also observed Service Management personnel lacked the tools and procedures to track adherence to the response time interval guidelines provided in the internal InfoBuddy

document, the name of the document.

So I think in rereading this, this is a case of where InfoBuddy described time intervals there was not a tracking mechanism built in to track compliance with those intervals, and they established the tracking mechanism which we didn't have a chance to evaluate the operation of.

DR. GRIFFING: So if you go down to the last paragraph on April 5th, 2002, that established the guidelines?

MR. WEEKS: Right. But I think there were some internal guidelines that were in InfoBuddy, and what they did is externalized those intervals, so there is really two aspects to it.

Twenty-four point five (24.5) is CLEC training. This is the type of training programs and curricula and the management of the training process and trainers and the like. Those are all satisfied.

Twenty-four point six (24.6) is OSS interface development review. This looks at and is probably one of the companion areas to change management that you want to spend some time sort of looking at. It's how Qwest goes about the whole process of helping CLECs develop their interfaces that interface to the OSSs.

All but two of the evaluation criteria were satisfied here. The two not satisfieds are 24.6-1-8, and this has to do with whether SATE, S-A-T-E, the stand alone test environment at Qwest has all of the characteristics that we would

normally expect it to have or not.

And we raised exceptions 3077 and 3095. Qwest chose to take a closed/unresolved on those. And one of the core issues here was the fact that SATE didn't properly emulate production environment in the sense that orders didn't flow through. Human beings intercepted them and sent back manual POCs rather than having the flow-through process simulated.

And then 24.6-2-9 had to do with the absence of a test environment unrelated to production for MEDIACC EB-TA.

MR. POST: On the 24.6-1-8, the SATE, by KPMG issuing a not satisfied, is it KPMG's opinion that SATE did not contain all the prerequisites necessary --

MR. WEEKS: That's correct. And the comments in that evaluation criteria will talk about the aspects that we felt might be missing, as well as the exceptions.

COMMISSIONER LANDIS: I tell you what, I want to break here for about five minutes. We've gone for an hour and-a-half. Is five minutes enough time for all the parties here? You need a break I would think.

(3:00 p.m. - Recess taken.)

MR. WEEKS: We had just finished discussing 24.6 which was the OSS interface development review. The good news is there are only

four more tests to talk about.

Twenty-four point seven (24.7), wholesale system help desk review. This is the help desk that if folks are having trouble interfacing with Qwest's OSS electronic systems, they would call this help

desk. So it would be questions about EDI interface or something like that. All the evaluation criteria were passed there.

Twenty-four point eight (24.8) is the interconnect service center support review. This is the help desk that CLECs call when they have questions. For example, a business question about how to fill out an order or how to specify certain fields in a pre-order inquiry or something like this, or I'm having trouble with an order, getting an order through, what's the deal. It's the help desk for ordering in effect. All those criteria are satisfied.

Twenty-four point nine (24.9) is network surveillance and outage support. This is the management processes around how Qwest manages its overall network and how it notices the CLEC community and others when there is a major outage somewhere in the system. And that's fundamentally the same process because the network is common to wholesale and retail. What it does for one it fundamentally does to the other in terms of surveilling the network, in terms of reporting outages and so on. Obviously it's reporting outages to itself on the retail side but it has obligations

to the CLEC community and the regulators on the outages that affect the broader community, and all of those criteria were satisfied.

Last but not least in terms of test report sections for KPMG Consulting is 24.10 which is the ISC/billing and collection center support review.

This is the test that looks at the help desk for billing. So if I have a question -- a CLEC has a question about a bill that they've received from the ILEC or something, they would call the billing help desk.

There was one unable in 24.10, and that was criteria 24.10-3-4, training of representatives is defined and documented. There were changes made as a result of some test activities to how this -- how reps that help in this billing help desk get trained and how that whole process is defined.

Changes were made again sort of near the end of the test and there weren't any classes going on for the reps for us to observe after the changes were made, so we just weren't able to see the process work. So we looked at the process, it exists, it's well formed now. We just didn't get to see it operate.

COMMISSIONER BOYLE: What are you

measuring when you test something like explaining billing questions?

MR. WEEKS: Well, if you go through

and look at the criteria, I'll give you -- I'll just give you a couple of examples of the kind of thing that we looked at. For example, criteria 1-1, the scope of the responsibilities of the billing support center is adequate to address customer inquiries.

So we're kind of like what kind of issues did they field, what kind of questions are they prepared to answer. Is that range of questions a broad enough range of questions that it would map on top of what we would believe in our experience would be the typical types of questions that billing help desk should answer.

COMMISSIONER BOYLE: Twenty-four dot ten.

MR. WEEKS: Yeah, I'm in 24.10. 24.10-1-2, for example, is process includes procedures to acknowledge and track CLEC requests. So is there some kind of -- some mechanism that tracks when CLEC calls and has an issue or a question or a problem they want resolved, they have a tracking mechanism. They will log it in, follow it up, see that somebody gets back to the CLEC and

answers their questions, those kinds of things. So we're kind of looking at the process and things, does it have the characteristics of a process that's well formed. Is it likely to consistently be able to answer questions and make sure things don't fall through the crack.

COMMISSIONER LANDIS: Just answer questions, are you also talking about the scope of

their authority I assume so they can actually effect a change or effect -- say direct some kind of a change?

MR. WEEKS: In the sense that -- there is usually multiple layers of help, if you will. There is usually the first line of defense, the people that are answering the phones. They do their best to try to answer the question, but they can't answer 100 percent of the questions. Some questions involve research, looking into something, so, you know, often times they will say, okay, I understand what the problem is, I'll log it in, somebody will go look at it. So then there has to be a tracking mechanism who's looking at it, when are they supposed to get back to the customer by, all of that kind of stuff.

So it's a variety of things, not just a

single thing, and there are layers of support behind one another that progressively more complex or questions get escalated to.

That is the last kind of test report section. There is another section of our work that I will point you to that isn't sort of quite so results oriented although it is, and that's Section 5 which is called the PID report of CLEC and commercial observation results.

And this bears -- you know, if you need something to put you to sleep tonight, go through this and -- no, I'm teasing.

This is a report PID by PID of what the company's performance was as measured by the pseudo-CLEC if we can measure it. And a statement as to whether Qwest passed or did not pass, passed or failed the benchmark or the standard that was established by the collaborative that set PIDs up. And we took this information, you know, just the scores, so to speak -- think of it like a test, and we factored all of that in to the relevant evaluation criteria in Test 12 or Test 14 as appropriate to give them the satisfied or not satisfied that I've been talking to you about earlier.

So we might take, you know, 15 passes here and that turns into one satisfied over here, but it's how to understand what the raw scores were on each of the PIDs that was measured during the course of the test.

There is an additional activity that the MTP called for us to do which was kind of reconcile our data that's set under our numbers to the data that's set behind Qwest's numbers. And that generated a flurry of exceptions and observations very, very, very close to the test like last week on Thursday and Friday, just very recently. And that's exception 3120 and observations 3109 and 3110. I've already talked about those but you'll see some of that in the Section 5 tables as you go through it.

And some of those activities were triggered by this underlying data analysis that we

did and sort of looked at transaction by transaction what we saw for time stamps to transaction by transaction data what Qwest saw for time stamps. So was it up at the average, you know, 2.3 for the month and 2.4 for the month, it was comparing results to results. It was looking at individual records for individual orders comparing raw data to raw data. We did that in the test as well. And

that's all described -- both the performance results and that data PID comparison is described in Section 5 so it's a fairly important section to look at from the perspective of understanding what the company's performance was like during the test on PIDs.

There are also HPC, Hewlett Packard Consulting section for this report. No one is here today from Hewlett Packard Consulting to talk about those. They produced several reports during the course of the test that are also a part of this record. They talked about their experience in initially setting up pseudo-CLEC and all the interfaces that's been out there for quite awhile now, but that is a part of the record for this test.

And then during the execution of the tests that we've been talking about, there is a Section 10, a couple of parts in Section 12 and then three appendices A, B and C that talk about various aspects of HP's experience as the pseudo-CLEC during the course of the test that you might want to make sure you don't overlook those as well.

MR. POST: Mr. Weeks, in regard to the HP observations and exceptions, do they cover areas that are distinct from what KPMG covered or do they overlap in any regards if you know?

MR. WEEKS: Let me talk about the process we used and I think it will answer your question. Liberty Consulting on the metrics or performance measures, HPC is the pseudo-CLEC and KPMG Consulting is both the test administrator and there is a couple places where we were the pseudo-CLEC in billing instead of HPC but not get bogged down in that distinction.

Fundamentally with respect to things that had to do with behaving like a CLEC, those were the responsibility of HP. Whatever they saw that they considered to be a problem, they run an observation, they wrote an exception. And they pursued that by testing and retesting, whatever they needed to do to get that issued resolved in their mind.

There are a number of tests here where as test administrator we were looking over their shoulders and we were adding information that we developed through our interviews and all of those kinds of things with information that they did.

So if they said, for example, here are a number of observations and exceptions that have to do with manual order processing, we looked at that and we said, you know, there is a pattern here. It looks like there is a pattern of issues with manual

order processing. We wrote an exception on manual order processing and manual order handling because we were monitoring and observing by design what it is that they were doing. So we wrote this kind of omnibus training kind of observation and exception.

So -- so there are aspects of the test which they solely were responsible for commenting on and which we made no comment whatsoever. Then there are aspects of the test where we solely commented on it. And then there are aspects of the test where it's kind of double jeopardy.

Well, we were watching what they were doing and we would point things out that they had also pointed out. So you will see in the comments section of some of ours we'll refer to particular HP observations and exceptions as part of the record that we examined when we came up with our satisfied or not satisfied. So they are entangled in some cases.

MR. POST: And I realize you didn't prepare those observations and exceptions, but have you had the opportunity to review them?

MR. WEEKS: Oh, we've looked at all of them, yes.

MR. POST: Do you have an opinion

that you would share with the commission as to whether any of their observations and exceptions should raise concerns for the commission?

MR. WEEKS: I think if there were

issues that were raised there that weren't satisfactorily resolved they found their way into our report to the extent that it affected any of the overall results of the tests. There may be some exceptions to that that don't immediately come to mind, but I think for the most part if it had to do with Qwest's performance during the course of the test and the service it delivered to the pseudo-CLEC, you know, problems associated with that, that found its way into our report.

There may have been other problems they had with billing out an interface or something that you would be hard pressed to find something in our report that talks about that. And it was their responsibility to resolve those exceptions and we didn't step in the middle of those.

We didn't do that with Liberty either. If Liberty said they were happy with something, we didn't second guess. If HPC said they were happy with something, we didn't second guess them.

MR. POST: Thank you.

COMMISSIONER LANDIS: Questions?

DR. GRIFFING: To go through this I think there are, depending on how you count, three UNE-P issues that are not classified as jeopardy notices, provisioning intervals and a maintenance and repair close out codes. In your opinion is that troublesome that one important product has sort of throughout its steps three problems?

MR. WEEKS: Well, I would -- let me

tackle those in parts. The jeopardy notices I think I've already talked extensively about and I don't think that's a product issue.

My impression, and I think you could explore this with Qwest in more detail because they certainly are better able to represent their situation than I am, but it would be my impression that the creation of jeopardy notices isn't a product specific issue. It's not unique to UNE-P or resale or anything else. So I guess the answer is no, I wouldn't lump that in as a UNE-P problem or issue per se.

On the -- on the issue -- on the other end -- on the maintenance and repair, the fundamental process that's used to do repair by its design does not depend upon the nature of the

product. In other words, whether it was a resale products line or a UNE-P, it wouldn't make any difference on how the repairs took place or the maintenance and repair process. So the close out codes that are being done by field techs aren't a function of product or product is no direct aspect that influences the codes, and so it's -- I would say it's just an accident if there happens to be more problems in UNE-P in that area than there were in resale.

The third issue I forgot what you said.

DR. GRIFFING: Provisioning intervals and delay.

MR. WEEKS: Yes. The provisioning intervals, absolutely those could be product related. That the activities associated depending on what the nature of the provisioning is, you could have a fundamental difference in the way UNE-P is provisioned and resale is provisioned in theory.

DR. GRIFFING: My question isn't so much is it just UNE-P, is it UNE-P in terms of three times resale comes up twice and it's -- you look at one thing maybe it's okay but here's it's boom -- here, three things.

MR. WEEKS: It would not be my

impression -- it would not be my professional opinion that that -- that that is a coincidence on a pattern.

MR. POST: With your experience in this OSS test and with others, should this commission be concerned about the number of refusals by Qwest to conduct retests?

MR. WEEKS: I think that is going to be one of the interesting issues that all of the commissions have to deal with. And I think you'll have to look to the advocacy positions of the various parties to get inside into what -- what that means.

As a tester I'm indifferent to the decision that Qwest takes. My job is to go in and execute the MTP and write observations and write exceptions and do what I'm directed to do. And I'm indifferent whether they want to retest or don't

want to retest. It doesn't change what I do or how I do it or how I form my opinions.

I think as an advocate Qwest believes obviously that they have a good reason for doing what they did or they wouldn't have done it, and they probably believe they have some compensating other information from commercial experience or

something else that will help bring information to the commission's attention that will help ameliorate that. That's my supposition, I don't know that for a fact.

My guess is that the other parties will look at that and say, you know, it's problematic that we never get to finish developing the record in this area, and, you know, we'll say that there is a reasonable amount of doubt as to whether we know what's really going on there or not. And so I think, you know, that's what makes it difficult at the end of these tests when we have these unresolved issues which we've had in every test to try to be Solomon like and say which of these issues are noise, which ones of these are substantive issues, and there is a little bit of smoke so maybe there really is fire. Which ones are we going to set aside and not worry about. Which ones are we going to take under regulatory supervision, we're going to pay a lot of attention to and we're going to follow-up on it. The test isn't the be-all end-all. You know, it's a search through the forest turning

over rocks trying to find out where the problems are. There are always unresolved problems at the end of every test. The job of the regulators then

is to figure out in my opinion as they do all day every day as issues get brought to the commission's attention, you know, what's in the best interest of the consumers in the state.

And there is a lot of other information you need to bring in that I don't have to decide whether something is really a problem or not. I'll give you an example from another jurisdiction. There was a problem with a particular type of product that, you know, you look at that and you would say, well, gee, that's kind of a serious problem. The fact of the matter was given pricing nobody in their right mind would ever sell that product. So given the total scheme of things, it was theoretically a problem, but as a practical matter it was no problem at all because the pricing was such that nobody would ever sell it.

MR. POST: In comparison to your responsibility in other OSS testing, is the number of refusals in this Qwest test higher, lower, about the same?

MR. WEEKS: It's much higher.

MR. POST: Can you elaborate as to how much higher?

MR. WEEKS: I wouldn't have a

percentage but it's definitely larger, noticeably

larger.

MR. POST: This is more of a specific question in regard to -- it's 24.6-1-8. You mentioned SATE and how in KPMG's opinion they did not have the prerequisite aspects to have that all work as I understood your response. Is that a fatal failure in KPMG's opinion?

MR. WEEKS: Well, let's talk about what the characteristics of a good test environment are and I think that will help answer your question.

What you would like to have if you have your druthers is an isolated test environment so that you can test things without disrupting production and set up test accounts instead of live accounts. That you can move forward in an orderly fashion so that you can keep your production interface up over here and have your test environment up over here and have them to be able to cycle independently of one another and operate independently of one another. So that's -- that's a fundamental preference, if you will, to testing that has existed in information technology at least since 1974 when I started doing IT. So, you know, it's a good sound principle.

Now, does that mean if you don't have that, that you can't get meaningful testing done. The answer is no, it's just higher risk, higher cost, higher everything else. And so, you know, can you test in production and do it meaningful, yes,

you can, it's just not as desirable. Is it a fatal flaw, no, it's not a fatal flaw but it certainly is desirable.

The next aspect of that is, okay, if I have a test environment even if it's a stand alone test environment, how important is it that that test environment mirror the production environment that it's supposed to be an example of. The answer is the closer the better because what I'm really trying to do is drive the thing around the block, and I would rather have the real piece of software I'm going to use in all of its glory than have a simulator strapped into certain pieces of it that don't let me really understand if it really functions the way I want it to or not. Because I really want to drive the car I'm going to buy, not one that's simulated in some way, shape or form or parts.

So your strong preference is to have the test environment be stand alone and to have it be a

mirror image of production so it behaves exactly the way during test that it will behave during production and you get no surprises.

Now, if it's not that way, is it a fatal flaw? Not necessarily as long as those aspects of the test environment that are there and are functional give you a good enough dry run and you're willing to live with the risk of the things you haven't yet tested, and you won't get to test until you get to the production environment. So it's a

risk mitigation issue.

I can mitigate my risk if I have a fully stand alone test environment, and I can mitigate my risk if it is a mirror image of production. If I fall short of that, I increase risk and risks work out both ways regularly. Sometimes the risk didn't pan out, everything is fine, you're off and running. Other times you took some risk, you lose, you're out of service, you're dysfunctional for awhile, you know, whatever the problems are. You can't predict which way it's going to be operating order. You just don't know.

So being a software engineer for a long time, I don't like risk. I try to drive risks out of projects, but in the real world you always have

to take risk, you never get it perfect.

MR. POST: So as a software engineer Qwest could in your opinion make improvements to this to drive those risks away?

MR. WEEKS: To drive the risk to the minimum it is feasible technologically to do, it's simply a matter of money and time.

MR. POST: Are there any test results that I guess would in your opinion cause Qwest to fail the OSS test?

MR. WEEKS: You mean are there any of the not satisfieds that they failed the entire test?

MR. POST: In your testing results is there anything, yes, that would cause you or in the

reverse question, do you believe that Qwest has satisfied the requirements of the OSS test as established by the ROC group?

MR. WEEKS: I think Qwest has fulfilled its obligation to subject itself to testing. I think it has made a good faith effort at trying to fix the problems that were identified during the course of the test. I think there are some of the areas that were not satisfied, unables or diagnostic that need to be looked at carefully in the overall context of what else is going on,

because as I said before the test isn't be-all end-all. It isn't the sole fact-finding mechanism. Other facts have to be put in evidence before you can say that the record that's being brought forth suggests that Qwest get 271 relief or not. I think it should never be the sole purpose of a test to say, you know, you pass or fail and you get in or you don't solely based upon the test itself. I think the test is designed to uncover what works and what doesn't work, and I think it's up to the regulators to figure out for the things that don't work what the remediation plan would be to fix those things and to move forward.

The standard in the test was never perfection. We never held Qwest to any standard of perfection in any area, and I wouldn't do so if I were trying to summarize the whole thing and say, well, because it's not perfect, you know, it's an issue.

I think you guys have to decide whether the issues that aren't in the satisfied category present a problem in the State of Nebraska, because they might present a problem in the State of Nebraska and not present a problem in the State of Iowa depending on what else is going on. I just --

I don't have enough facts to answer your question.

MR. POST: You mentioned remediation plans. Last question I think.

In your opinion do you think those remediation plans need to be in place and demonstrated as working prior to Qwest going to the FCC with the OSS results?

MR. WEEKS: I'll get back to risk. You know, if you look at the record of what's been done in other jurisdictions, surely the New York commission took some risk when it endorsed Bell Atlantic's application in New York before the FCC.

COMMISSIONER BOYLE: Didn't it fail?

MR. WEEKS: No.

COMMISSIONER BOYLE: After they gave them approval, didn't AT&T have a problem with --

MR. WEEKS: There was one month -- it was three months where someone changed a piece of software that didn't work and 10,000 orders fell on the floor, and then they fixed the software and it's been working ever since.

COMMISSIONER BOYLE: After they went to court?

MR. WEEKS: Well, whatever the cause -- proximate cause of the fix was, it got

fixed and it's now working. It's been working successfully for a couple years.

COMMISSIONER BOYLE: It goes back to the intent of both parties to solve their problems.

MR. WEEKS: I would agree with that assessment.

DR. GRIFFING: I've heard you say that if KPMG had established the test on its own there are some things they wouldn't have concluded in the test, certain --

MR. WEEKS: I don't remember saying that but I probably did at some point.

DR. GRIFFING: Well, I think in Sante Fe actually. Are there any among the not satisfieds or the unable to determines that if you were setting up the test you wouldn't include in a test?

MR. WEEKS: Would I have not have tested that area; is that the question you're asking me?

DR. GRIFFING: Yeah.

MR. WEEKS: I don't think there is any area of the test on a broad sweeping total test basis like Section 13 or Section 14 that I would totally eliminate from the test. I think there are some areas of the test that it's good to take a look

at them, but after you look at them you kind of go what did I find. Like forecasting is one of them.

CLEC forecasting I've always thought was kind of a silly test because it's just -- it's not a business process that's designed to succeed because of the nature of the competitive environment. So that's a waste of everybody's energy as far as I'm concerned.

But as I -- you know, as I look through here where the not sats and the unables are, I wouldn't get rid of the POP test and I wouldn't get rid of the provisioning test.

DR. GRIFFING: How about particular items, particular not satisfieds or unables?

MR. WEEKS: We talked about the jeopardy thing. Again, I don't think I would get rid of that, I just don't think I would get all fussy about the fact that it's in the state that it's in.

You don't know ahead of time on some of the more esoteric products, the EELs, you know, what are you going to do. That's one of the things where you have to set the test up to go do it. But if it doesn't happen, you don't get all fussy about it.

The EB-TA stuff even though that wound up working, there aren't too many commercial users of

electronic bonding for trouble administration. That's an area that I think probably can be -- the standards -- the interface standards there aren't put out by Qwest, they are put out by industry. And the technology behind that is so arcane. There is about ten people in the whole world who even know

how to do it. I think that it's probably an area that if there were problems in that area I wouldn't worry too much about it because there is only going to be a handful or less of users and they are going to sit down one on one and work through that if it doesn't work correct.

I think there is some of the process test stuff that, you know, it's good to go look at it just to look and see if it looks like they are a mature organization and it's well formed, but I don't think there is a lot of stuff in there. And they got mostly satisfieds on all that stuff anyway eventually. We had a lot of observations and exceptions in those areas and we cleaned some things up so they are not in a state that you describe, but initially they were in some cases.

But as we've seen with manual processes of any type, they are very prone to error and so the more -- the more you can automate, especially in the

ordering flow through stuff, the better off everyone is. It costs Qwest less money if stuff flows through because they don't have to have a lot of people to manually handle those orders. So getting flow through working initially is expensive to do all the programming and the software, but once it's in, you know, it's a lot more reliable once it's been made to work.

That's an area in every test that you always want to take a good hard look at, flow through manual order handling. It's just

problematic of any industry. This isn't a Qwest issue, this is an industry issue.

DR. GRIFFING: One more question. Take advantage of you while you're still working.

I've heard you also say you think there should be fewer parity issues and more benchmark issues. Briefly how do you move toward that direction, how do you identify what should become --

MR. WEEKS: Let me explain my comments. Buster has the benefit of hearing some statements I've made before that maybe you guys haven't heard.

The problem with parity measures is that they are a double-edged sword. And I'll give you

some examples from another region. Parity standard pre-order response time and the retail performance was 1.5 seconds, the wholesale performance was 2 seconds. That's statistically a significant difference. That's a technical pass.

Two seconds is absolutely outstanding from a run my business all day every day perspective, and that technical failure makes no sense whatsoever.

You can go the other way, same test, different measure, and we had a response time where it was parity, and in both cases it was like 24 and-a-half, 25 seconds. So the technical pass 25 seconds is terrible, absolutely obscene, double what it ought to be. Technical pass.

I think if you look at the industry in

general, and you look at service level agreements that get negotiated, people negotiate discreet, finite levels of service, 99 percent availability, this and that. They are looking for predictable absolute measures of performance that they can build their business around. And that's why I like benchmarks better than I like parity.

The counter argument if you look at it just from a competitive standpoint is, well, you know, wholesale is not any worse than retail

business, but retail customers may be getting terrible service too, and I just don't like that whole idea, it just rubs me the wrong way. I would rather -- if I were God making these rules, I would rather try to get absolute standards that give the CLECs a chance to have high quality, good customer service. Make that as an incentive to improve the retail performance if that's what results from it, but come up with numbers that make business sense for the CLECs so that they can go steal customers away.

If I'm going to get terrible service from Qwest and terrible service from AT&T, what's my incentive to change to AT&T?

COMMISSIONER LANDIS: Would you see that or envision that as part of an ongoing review process of probably QPAP if nothing else?

MR. WEEKS: It's more PID definitions than QPAP I think.

COMMISSIONER LANDIS: You see that as

part of an ongoing -- much like your test, it doesn't end today.

MR. WEEKS: Right, exactly. The commission is committed to at least twice a year going in and reviewing the PIDs and subjecting them

to revision.

COMMISSIONER LANDIS: Your druthers is the standards should be benchmark as opposed to parity when we can make that choice?

MR. WEEKS: That's just my impression as --

COMMISSIONER LANDIS: You're the --

MR. WEEKS: I'm not an expert here. This is one person's opinion.

COMMISSIONER LANDIS: Buster, Dr. Griffing, anything else?

DR. GRIFFING: No.

COMMISSIONER LANDIS: I have a question for you, Mr. Weeks, kind of along the same line as Chris.

Your opinion after going through this test, do you think that Qwest -- OSS systems now both electronic and manual, all of them as a whole provide a level fair playing field for CLECs in Nebraska? If you don't think it's a fair question, tell me, but I'm not an expert here.

MR. WEEKS: I think if you look at the record of the test, the record of the test would suggest that for the most part, and there are

exceptions and they are noted in the report, CLECs

can get the pre-ordering information they need, they can get their orders processed, they can get stuff provisioned, they can turn in trouble reports, they can get DUF files, they can get bills and most of the time that works pretty well.

As you move away from the mainstream things that get ordered all day every day into the things that get ordered less frequently, naturally the quality drops off. I think as you move away from the automated systems, the lights out sort of stuff into human beings need to get involved to do something, quality drops off, that's understandable.

And I think that just from the OSS perspective, and I'm not looking at all the other aspects of relationship management and change management and release management and all those other things, I'm looking at the OSS's themselves, can I get -- if I've got a customer, can I get them up and online as a CLEC. Probably the answer is yes and I'll probably get it right more times than not. And the issue will be probably -- and I don't know what it's like in Nebraska, that's why I was making some of the comments I made earlier, but I don't know what pricing is like in Nebraska so I can't tell you if you're -- if you do or don't have

competition here now, and if you're likely to have more or less later. But I can say I think the record says that for the most part if you stay in

the sweet spot, you're going to be able to do business most of the time and get what you need, and you're going to have to live with an error rate that's, you know, in the -- by the test 5 percent, somewhere in that range, maybe to 10 percent on the manual stuff error rate. And you have to ask yourself the question as regulators is that good enough for my consumers. That's kind of what you can expect. Now the question is, is that good enough. That's the Solomon question, that's not a tester's question. You know, what's good enough.

And it just strikes me that figuring out -- figuring out how to proceed given this record and the other record you're going to accumulate is really going to be a hard decision to make. I'm not going to make it easy for you and tell you what the answer is. I don't know what the answer is because I don't know all the facts. I don't know what I -- yeah, can most of the time -- if I can live with those kind of error rates, can I run a business, yeah. It's going to cost me a lot of money but I can do it. I mean, any process that has 5 or

10 percent error rate is going to be more expensive to operate than a process that has 1 percent or half a percent rate. Some of the tolerance levels in some of the PIDs are very, very generous in my opinion and not as tough as they are in some other jurisdictions.

COMMISSIONER LANDIS: Okay.

COMMISSIONER BOYLE: And that's what leads to what your other comment was regarding accepting poor service, right?

MR. WEEKS: Or accepting the service at the level it's at.

COMMISSIONER BOYLE: Which if it's not good then you're kind of training the public to accept this is the best I can get as opposed to encouraging parties, companies to do better and provide very good service.

MR. WEEKS: Right. If it were me, I would always keep raising the bar up to some point where it just becomes cost prohibitive. You can't have perfection, the cost is outrageous. Consumers wouldn't deal with 200 a month phone bill if that's what it took.

COMMISSIONER BOYLE: It goes to something else that's always been something I've

talked about, how much time does the consumer expect to spend on the phone trying to get something repaired. If there is a hidden cost that has never been controlled that consumers are paying because they can't get something taken care of properly.

MR. WEEKS: And that gets back to the point of where do you hold the standard. If you're willing to have 5 percent unhappy customers and you multiply that times the number of absolute customers, that can be a huge number of unhappy people. But, you know, if you look at a process, 5 percent error rate is not all that bad when you

say it out loud. It's when you translate it into absolute numbers that it starts to drive everybody crazy.

COMMISSIONER LANDIS: Well, Mr. Weeks, I want to thank you for your hard work and effort over the past couple of years and designing and conducting and now reporting on a very technical, detailed process out there, systems and processes, and I want to thank you. I only wish our own Dick Palazzolo could have been here today to participate.

MR. WEEKS: I do as well. He's been a very important part of our process and I'm sorry

to hear about his loss.

COMMISSIONER LANDIS: I think to a large extent this is kind of the fruition of several years of his efforts, too, so I would like the record to reflect our thanks to both of you from the four commissioners present. So with that then we're adjourned.

(Conclusion - 4:00 p.m.)

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C E R T I F I C A T E

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Mary Lou Dubbelde, Registered Professional Reporter, General Notary Public within and for the State of Nebraska, do hereby certify that the foregoing transcript of proceeding was taken by me in shorthand and thereafter reduced to typewriting by use of Computer-Aided Transcription, and the foregoing ninety-three (93) pages contain a full, true and correct transcription, to the best of my ability;

That I am not a kin or in any way associated with any of the parties to said cause of action, or their counsel, and that I am not interested in the event thereof.

IN WITNESS WHEREOF, I hereunto affix my signature and seal the 31st day of May, 2002.

MARY LOU DUBBELDE, CSR-RPR
GENERAL NOTARY PUBLIC

My commission expires:

KPMG's Qwest Communications OSS Evaluation Final Report Errata Document

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P R O C E E D I N G S

CHAIRMAN GIFFORD: Good morning, everyone. We'll call Docket 02M-260T. We are here this morning for workshops concerning the ROC OSS test and data reconciliation.

We'll begin the morning by taking entries of appearance, starting to my left. Mr. Crain or Ms. Ciccolo?

MS. CICCOLO: Good morning, Mr. Chairman, Commissioners. Kris Ciccolo and Andrew Crain appearing on behalf of Qwest. Also with us at counsel table are Mr. Paul McDaniel and Ms. Lynn Notarianni.

MS. DOBERNECK: Megan Doberneck, Covad Communications company.

MS. TRIBBY: Mary Tribby, AT&T.

MR. DIXON: Thomas Dixon appearing on behalf of WorldCom and its regulated subsidiaries.

CHAIRMAN GIFFORD: Any other counsel in the room?

MR. ADAMS: Harris Adams appearing on behalf of the Colorado Office of Consumer Counsel.

CHAIRMAN GIFFORD: Any counsel on the bridge?

MR. STEESE: Chuck Steese on behalf of

Qwest as well.

CHAIRMAN GIFFORD: Last but not least you, Ms. Jennings-Fader.

MS. JENNINGS-FADER: Thank you, Mr. Chairman. Good morning, Commissioners. Mana L. Jennings-Fader, Assistant Attorney General, appearing on behalf of the Commission.

CHAIRMAN GIFFORD: Thank you all. I assume you had a successful dress rehearsal of this last week in Washington state, so we're hopeful that this performance will even be tighter and more compact. You're on Broadway now.

We are going to begin this morning with the presentation from our staff, Mr. Smith and Ms. Allstot, and then proceeding according to the agenda I believe Ms. Quintana issued to you all early last week.

Mr. Dixon?

MR. DIXON: Yes, Mr. Chairman. I have a very quick procedural question.

In view of the fact that the Commission intends to deliberate on this case sometime this week, I assume there will be no need for briefs? Has to do with my note-taking in this proceeding.

CHAIRMAN GIFFORD: There will be no

need for briefs.

MR. DIXON: Thank you.

CHAIRMAN GIFFORD: Any other preliminary matters before we begin?

MS. DOBERNECK: I'm sorry to interrupt. I had filed a motion last week seeking to admit into the record some records requisition response and a bench request response which is still pending this morning.

CHAIRMAN GIFFORD: Yes. I think we did get that Thursday. I think we're going to put it on for the deliberation.

MS. DOBERNECK: Thank you, Your Honor.

CHAIRMAN GIFFORD: Just so everyone knows, our plan was probably to go late tonight to accommodate schedules and try and get as much ground covered today as possible. We'll start again tomorrow morning at 8:30 and we will start Wednesday at 8:30 as well, knowing that some of the data reconciliation can't be taken up given witness availability.

With that, we will turn it over to you, Mr. Smith.

MR. SMITH: Thank you, Mr. Chairman. Good morning, Commissioners. This will be a very brief presentation by staff, just to give you some

background in staff's participation in the ROC OSS test as well as a few comments on data reconciliation.

In June of 1999, the Colorado Commission joined other members states in the Regional Oversight Committee in proposing a collaborative region-wide test of then-US West Communications operations support systems. The proposal established a process for states and US West on a regional basis to ensure OSS checklist compliance that was verified by independent party testing. States would not relinquish their ability to make independent determinations of Section 271 filings in each state and Qwest would not be required to abandon any state-specific advocacy it might choose to make.

In that letter, the Colorado Commission stated an express reservation that region-wide OSS testing would not prejudice or delay OSS testing in Colorado. Colorado Commission subsequently did join in the ROC OSS test as a full participant.

During late summer and early fall of 1999, staff observed the development of a master test plan in Arizona. The purpose of our observation was to determine if any of the elements of that process could be used in Colorado. At that point in time it

was still a potential that Colorado would come forward with an independent standalone Colorado OSS test.

It's important to note, I think, that many of the participants in Arizona subsequently intervened in the Colorado investigation. During that same time frame, MTG Consulting was selected to serve as the project manager for the ROC OSS test on behalf of the ROC.

From December of 1999 through March of 2000, staff participated in ROC meetings to develop a preliminary master test plan and the test requirements document. These meetings resulted in issuance of request for proposals that were released on March 9, 2000, for a test administrator, a pseudo competitive local exchange carrier, and a performance measure auditor. Staff then participated in the RFP review and vendor selection meeting that was held in Seattle in March of 2000. As a result of that meeting, KPMG consulting was selected as the test administrator, Hewlett Packard to serve as a pseudo CLEC, and Liberty Consulting as a performance measure auditor. The vendor contracts were executed in July of 2000.

On April 25, 2000, the Commission issued a procedural order, Decision C00-420, that granted interventions in Docket 97I-198T. At that

time the Commission directed parties to consider OSS testing done in other states and by the ROC as part of the development of an OSS testing proposal for Colorado.

In June of 2000, there was another procedural order that confirmed Colorado's participation in the ROC OSS tests and described how the Colorado workshop process would relate to and interact with the region-wide testing of Qwest's OSS being conducted under the auspices of the ROC.

Throughout the test development and testing process, staff participated as a member of the ROC steering committee which was responsible for oversight of the test on behalf of the participating states and the technical advisory group, the TAG. TAG was composed of state Commission staff representatives, CLECs, Qwest, industry association, and the ROC OSS test vendors. Both the steering committee and the TAG met every week, normally by conference call, and more frequently as necessary. Chairman Gifford also served as a member of the ROC executive committee which met at least monthly and more often as necessary.

In January through November of 2000, staff participated in numerous workshops related to

performance measurements and statistics and the development of the performance indicator definitions, the PIDs, to be used in the test. KPMG Consulting issued the final ROC master test plan in November of 2000, and transaction testing commenced on March 1, 2001. Staff also participated in the ROC OSS test meetings with the Federal Communications Commission and the Department of Justice as well as the three vendor technical conferences.

Moving now to brief discussion of data reconciliation data reconciliation. From December of 2001 through February of 2002, Liberty Consulting issued individual data reconciliation reports for Arizona, Colorado, and Nebraska.

On February 5th and 14th of 2002, the Hearing Commissioner held a technical conference on data reconciliation for Colorado. Subsequently, during March and April of 2002, Liberty Consulting issued individual data reconciliation reports for Washington and Oregon, and on April 19th they issued a final report that included findings from Minnesota and Utah, as well as their overall conclusions.

Qwest has filed all of the Liberty Consulting reports as either exhibits in the Colorado technical conference held in February or a subsequent

separate filings in Docket 97I-198T.

That brings us to today's en banc Commission workshop, the purpose of which is to incorporate the results of the ROC OSS test and the final data reconciliation reports that have been issued since February Colorado technical workshop.

We'll be glad to answer any questions on behalf of staff.

CHAIRMAN GIFFORD: It's been a long road.

MR. SMITH: A long and wonderful road, yes.

CHAIRMAN GIFFORD: Questions, Commissioners?

COMMISSIONER PAGE: No.

COMMISSIONER DYER: No.

CHAIRMAN GIFFORD: Thank you for that presentation.

With that, we're going to proceed into vendor presentations on the OSS test.

Ms. Quintana, who is going to go first?

MS. QUINTANA: I believe the vendors wanted to do it as a panel, so I believe there would be a representative from each of the four vendors at

the table, and I believe we were going to begin with Liberty.

CHAIRMAN GIFFORD: While we're getting our -- are you going to need any time to set up? Let's take a five-minute break while we set up the presentation.

(Recess taken.)

(Exhibit Nos. 1, 2 and 3 were marked for identification purposes by the court reporter.)

CHAIRMAN GIFFORD: We'll go back on the record with the -- if we could have your attention, we'll go back on the record. We have the vendors with us front and center.

Thank you all for being here. We'll get to you in a moment.

Just so everyone is on the same page, we have marked what I guess will be referred to as vendor-sponsored exhibits. Exhibit 1 is MTG's power point, Exhibit 2 is KPMG's power point, and Exhibit 3 is Hewlett-Packard's power point, just so everybody is up on that.

As everyone knows, the procedural regularity in this proceeding to date has been virtually nonexistent. How we're going to proceed here today and in the next day is with panel of our

vendors who will be introducing and swearing in as witnesses in a moment. After that, their presentations, there will be opportunities for parties to ask questions of the vendors and we won't be doing it in normal Commission cross-examination style but in the collaborative spirit that pervades this entire proceeding. The Commission may also have questions as well, obviously.

To help focus parties' questions and presentations, frankly, let me just tell you what I see us hoping to be able to accomplish in this proceeding. I think it's two things.

First of all, most obviously, we're making our record for the FCC and every party will want to get their evidence into that record and be persuading one way or the other on the adequacy of that record.

From my understanding from the trade press, Qwest intends to file an application quite soon and, as I've said all along, they have the right to do that whenever they feel they have an adequate record. With that in mind, parties, you are well aware, you're making a record in front of us for the FCC.

The second thing, of course, you're doing is influencing our recommendation to the FCC

with your advocacy as to whether or not in our opinion Qwest meets the requirements of Section 271 and that is a similar but slightly different undertaking.

What I'm particularly interested in as it relates to the OSS report for my purposes, counsel, is to understand in particular the import of these parts of the test that were closed, not satisfied, or unable to determine, or unresolved, or inconclusive, the relative weight we should give those results, their import in the scheme of 271. I'd like to hear if from the vendors or from any party who knows if similar inconclusive or closed unresolved or not satisfied criteria have come into play in other states' applications that have already been through the FCC, and if those were dispositive one way or the other to the FCC, because that will certainly help us in the context of making our decision as we attempt to discern what the FCC wants in this 271 application.

To the extent that helps counsel focus their questions and target their advocacy to this Commission, I would offer you that.

Now I'll shut up and turn it over to our vendors in this. If you could all introduce yourselves to start with and then I'll swear you in.

MR. CENTER: I'm Bob Center with MTG.

MR. WEEKS: I'm Mike Weeks with KPMG Consulting, Inc.

MR. ANTONUK: John Antonuk with Liberty.

CHAIRMAN GIFFORD: Good morning, gentlemen. If I could swear you in.

(Bob Center, Mike Weeks, and John Antonuk were sworn.)

MR. CENTER: Good morning, Chairman Gifford, Commissioner Page, and Commissioner Dyer. This morning I will provide a brief overview of how the ROC project got started, how the effort was organized, and the processes that were used to govern the test.

Mr. Bruce Smith previously covered much of the material that's contained in this power point presentation so I will abbreviate my remarks and try to make them complementary to Mr. Smith's remarks rather than redundant with them.

If you would turn to page 2. MTG was hired by the ROC to act as the test manager. The MTG team was dedicated to the ROC OSS test and the team has extensive telecom experience as consultants to the industry and as managers within service provider organizations.

Turn to page 3. The formative steps towards the ROC Qwest OSS testing project were taken during 1999. Prior to the ROC test, all OSS tests had been conducted on a state-by-state basis. Experience in other states had shown that OSS testing is a very large undertaking. The ROC states believe that it would be to everyone's benefit to pursue testing collectively rather than on a state-by-state basis.

These thoughts in mind, a regional OSS testing approach was suggested by Commissioner Bob Rowe of Montana in March of 1999. A letter of agreement to pursue regional testing was executed by the ROC and Qwest, which was then US West, in September of 1999. MTG was hired as project manager in October of '99. The first Technical Advisory Group, or TAG, meeting was held on November 4th of 1999, and the first collaborative session, the first workshop on principles and scope was held in December of 1999.

Turn to page 4, please. The ROC Qwest OSS test was conducted in four phases with various aspects of the performance measure audit running concurrently through all phases.

Phase one focused on test planning in which a broad testing framework was established and

vendors were selected.

In Phase two, test preparation and setup were conducted with vendors on board and focused on building the test infrastructure and defining testing processes.

Phase three focused on feature function testing, and also the other parts of the process testing continued and were expanded in phase three.

Phase four, which concluded on the 29th of May, focused on results, developments, statistical analysis, and the final report.

Page 5, please. Early in the project an organization was set up to oversee the test. The umbrella organization for the testing effort was the Regional Oversight Committee consisting of the states in the Qwest region, with the exception of Arizona. The ROC executive committee consisting of seven state commissioners provided the executive authority for the test and resolved issue impasse appeals. The steering committee composed of state staff's monitored and guided the test on a week-by-week basis. The project administrator was the National Regulatory Research Institute and their responsibility was to ensure effective communication among regulatory bodies,

and they also maintained the ROC Web site. My organization, MTG, provided the project manager team with Denise Anderson as the head of our team, and our role was to provide day-to-day testing oversight.

Turn to page 6. The ROC Technical Advisory Group, known as the TAG, served as a primary collaborative forum for the testing effort throughout the testing life cycle from pretest planning and design to execution and on to the final report.

The TAG consisted of CLECs, industry associations, the ROC steering committee, Qwest, and the vendors. There's been broad participation by the CLECs throughout the effort. Early in the effort there were 20 or more CLECs that participated in some fashion, and the CLECs participated in the day-to-day execution of test activities from initial planning through providing input to the resolution of observations and exceptions. We had participation from industry associations, of course from the ROC steering committee, and Qwest of course was the subject of the test and, in addition, provided major elements of the test infrastructure such as the test bed, and also participated in management and conduct of the test on a day-by-day basis.

Page 7, please. Early planning for

the ROC test was conducted top down with the idea that if we reached consensus on the big items first, the rest would follow. This early planning resulted in four key documents which defined the concepts, principles, and processes that guided the entire testing effort. The first document was 20 collaboratively developed guiding principles. From those and from previous testing efforts, a master test plan was built, the first version of which was a test requirements document which later evolved into a master test plan. Yet another key document described the performance measures and the document is actually known as the performance indicator definitions, or PIDs. The important point -- the important principles regarding the PIDs is that they were to be agreed in advance and audited before they were applied in the test. Additionally, requests for proposals for the three vendor roles were defined. The vendor roles as required by the ROC were the test administrator, the pseudo CLEC, and the performance measure auditor.

In the winter and spring of the year 2000, five collaborative workshops were conducted and specific workshops focused on each of the three key documents -- each of three key documents, the principles, the technical requirements definition, and

the performance measures. Additionally, once vendors were hired, additional workshops were conducted on the master test plan and on statistics.

The routine management of the ROC test was accomplished largely through regularly scheduled and as-needed meetings. The executive committee met once a month, the steering committee met weekly, and then the next four meetings were conducted weekly and were open to the TAG. There was a specific TAG meeting which addressed the broadest set of issues regarding the test. It was a project manager's meeting. Observation and meetings which dealt with the specifics of what the vendors saw within Qwest's OSS systems when they performed testing upon the systems, and then the pseudo CLEC and Qwest account managers' meetings.

It's important to note that these four meetings in the middle here were all open and they provided the open nature of these meetings, provided parties with a broad and deep opportunity to participate in the testing process.

ROC decision-making -- page 10, please. ROC decision-making and impasse resolution process provided a strong framework for collaborative decision making. The great majority of issues were

resolved collaboratively with only 14 going to impasse. The implicit threat of the regulators making decisions on key issues inspired the collaborative and resolving issues collaboratively rather than escalating issues to the regulator became a point of pride within the collaborative -- among the collaborative participants.

The ROC issue resolution process consisted of, first, an attempt, usually successful, to resolve issues within the collaborative group itself. If issues couldn't be resolved within the collaborative, any party could escalate an issue to the ROC steering committee. Position papers were written and then the ROC steering committee rendered a decision. Any party could appeal to the ROC steering committee decision -- could appeal the decision to the executive committee.

Page 11, please. Throughout the project, the TAG has conducted regular briefing sessions for state regulatory bodies, the FCC, the DOJ, and in one case national Congressional staff. There were two types of these meetings. The ROC OSS test was on the agenda at the last five of the ROC twice-yearly meetings, and the second type of meeting, the TAG has traveled to Washington, D.C., to brief the

FCC and/or the DOJ on five occasions, with one more trip planned next week.

Page 12. Page 12 provides a high level map of the ROC/Qwest information repository and also gives the Web address or URL for that repository. This body of material was put together with two purposes of mind. One is, it's a ready reference to most all of the business that was conducted by the ROC, including, for example, all of the TAG minutes and project manager meeting minutes. Its second purpose was to provide a body of information from which Qwest could extract material needed for its filing.

On behalf of MTG and the MTG project team, I'd like to thank the Colorado Commission and the other commissions and also all of the vendors and the other parties to the test which I think was quite successful due to the professionalism and diligence exhibited by all parties for a long time.

Thank you very much.

CHAIRMAN GIFFORD: Thank you, Mr. Center.

Questions?

COMMISSIONER PAGE: No questions.

COMMISSIONER DYER: No.

CHAIRMAN GIFFORD: Why don't we proceed to you, Mr. Weeks -- Mr. Antonuk, then we'll go to questions from the parties.

MR. ANTONUK: Thank you, Mr. Chairman.

I think I should start off by pointing out the most notable fact about my identity here today and that is that I'm not Bob Stripe. Bob and I spent a lot of time, in effect, co-managing the performance measures audit at its inception and we had anticipated we would probably continue in that vein, but with the creation of the multi-state 271 checklist compliance effort, my attention very soon became devoted very substantially, in fact almost exclusively to that effort.

From that point, I remain involved with Bob and making sure we had adequate resources on the job. I provided general executive off-project oversight and review. For all of our projects we make sure we have a senior person not directly involved as a sounding person and to serve as a QC function as well.

I did engage in occasional consultation with team members from time to time based on matters that I had started and transferred to them. I engaged in making a variety of status report

presentations to various agencies, several state commissions, the FCC, the US Department of Justice, and Congressional staff.

I can and will do my best to answer any questions you have today. I have certainly enough of a general knowledge about what we did to make an overall presentation and I have with me Dr. Paul Avig, our most senior team member. To the extent I get questions I can't answer, Paul and myself will endeavor to get you the best answers today and we will make a complete list for Bob Stripe who will be here on Wednesday to handle anything we ultimately fail to assist you with.

A little bit about Liberty. We were founded in 1987 and have been working for 12 years for public service commissions. We have worked for commissions in more than 30 states now, primarily engage in audit work. In the telecommunications sector, all of our work has been for public service commissions. In the energy and natural gas practices, we work both for commissions and service providers.

We have done extensive work under the Telecommunications Act as well. We've served as arbitrators, we've been expert witnesses in arbitrations, in UNE price proceedings, in SGAT

provisions, and as I mentioned before, through our work in the multi-state effort became fairly deeply involved in addressing checklist compliance issues.

The objectives of the performance measure audit fall under one general statement which was to determine whether there are reasonable assurance, that the performance as measured and reported by Qwest was equivalent to the performance that Qwest was actually delivering in the areas measured. That general objective statement was broken down into three related sub parts.

The first was to validate the Qwest measurement of performance was being undertaken in the manner that was prescribed in the performance indicator definitions.

Second, an audit objective was to compare and assess retail and wholesale operations processes in those areas that were material to serving CLECs, recognizing that in many areas the kind of service that Qwest was providing to CLECs was similar to or in some cases almost identical to services that it needed to provide to its own operations in serving its own end-users.

Third, an objective of the audit was to verify that, where required, comparable wholesale

and retail processes were, by the nature of their very design and operations, capable of providing service at parity, meaning parity between service provided to wholesale customers and to Qwest's own end-users.

The scope of the audit was broad; it covered all the performance measures that were included in the performance indicator descriptions. Those include all of the measures that were tested by KPMG and HP. It also included a number of measures that while important in determining the quality of service to be provided, were not scheduled for testing as part of the OSS test process.

Our approach to the audit was along three principle lines of inquiry. First, we examined Qwest's processes for collecting and processing data in order to determine whether Qwest could and did appropriately capture process and report performance information against the standards and measures that were defined in the PID. This line of inquiry included assessing the adequacy of Qwest's methods, procedures, and other relevant documentation as they related to all material aspects of the performance measurement process.

In addition to that process-based review, we also conducted a second line of inquiry

which consisted of an end-to-end analysis of sample sets of data in order to verify the complete and accurate functioning of Qwest's data capture, security, processing analysis, and reporting processes.

That actually was, to my way of thinking, akin to the injection of a dye into a system and looking at whether the dye as injected did the right thing as it was processed through all the functions of the body, and when it came out, it came out in the right form and in the right way. I think I probably don't want to go much further with that analogy at the risk of becoming too anatomical.

The third line of inquiry. We formed an independent calculation of performance measures that was designed to corroborate the adequacy of Qwest's processes for measuring performance against explicit standards and measures in the PID. What this means is that we used Qwest's own source data which in many cases is extensive and of many different types. We recalculated with that base source data on our own the same measurements that Qwest undertook in order to confirm that we would come up with the same amount. That obviously was not designed to test the adequacy of Qwest's data, that particular part of the audit,

but it was designed to show that once the data became part of the measurement process, it was in fact being used correctly by Qwest.

We began our audit work in June of 2000 and we submitted our primary report on July 11 of 2001. What that means is that while we were never the big dog in OSS testing, we did have the good fortune for a spell to be the lead dog. The reason was that all of the measures that were slated for OSS testing needed to have passed the audit before testing could begin.

Work continued even after the report because that first report, as I just hinted at, focused on the measures that were designed to be tested. We continued to work on measures that were not subject to the test but were still included in the PID. In addition, work had to continue because some of the measures simply couldn't pass muster at the time of the initial report.

In addition, a number of changes to measures were proposed in the course of the audit, and our scope included going back and making sure that after the changes to the PIDs, we went back and conducted the necessary audit activities to, in effect, test the changes that had been made.

I believe in several cases there were actually entirely new PIDs created, some of which were included in the audit scope.

We submitted nearly 600 requests for written information to Qwest and we conducted over 170 interviews and work sessions with Qwest employees. Those interviews included extensive work in looking at how Qwest personnel functioned in taking measurements, what systems they used. It actually -- that phase of the work included an examination in many cases of the interior of many of those systems.

When we began the audit, we solicited from each participating CLEC an indication of any information or areas of audit concern that they might have. We used that information to tailor the work plan we had developed, and after that tailoring, we prepared a final work plan which had the benefit of that contribution, and then the audit was guided from thereafter by that work plan.

In the July 11, 2001, record, we summarized all of the observations and exceptions we had issued to date. There were 25 observations and 44 exceptions as of that time. As I indicated, audit work continued thereafter. We ultimately issued additional numbers of observations and exceptions as

well. But the 25 observations and 44 exceptions were the ones that were addressed in the primary report.

In each case where there was an observation or an exception, Qwest responded, CLECs had an opportunity to comment; as Bob Center indicated, there were observations and exception meetings at which concerns that were not suitable for presentation in writing could also be raised.

We took the information provided by Qwest, we took the information provided by all the parties to those observations and exception meetings, we took all the written comments and determined whether or not an exception or observation could be closed out, meaning that performance had been demonstrated to be satisfactory or whether Qwest had proposed what appeared to be satisfactory methods for resolving. Ultimately, all of the observations and exceptions were closed out based upon our belief that Qwest had taken reasonable actions to assure that in all the areas of concern steps had been taken to assure that the performance that was being reported was equivalent to the performance that was actually being delivered.

Liberty reviewed all revisions that Qwest made to its processes, its programming code,

its methods, its procedures, and its other documents before we closed out each of those observations and exceptions. We also ensured through independent recalculation of results that Qwest had correctly calculated its monthly reports before releasing each measure but after the change had been made.

We recognized when we did the audit that once the audit activities were completed, methods of measurement could change and thus again raise some more questions to those addressed in the audit. Therefore, we were asked to and provided what we felt was a comprehensive system for assuring that once validated, the measures would remain accurate in the future.

Basically those measures, to summarize them very briefly, included, one, a process for ensuring whenever Qwest made a change to its methods of measurement under any of the PID, that change was visible so that CLECs and the commissions could determine whether or not any of those changes caused any material uncertainty about the continuing ability of the measures to be reported accurately. We also proposed a series of recurring audits and a system for assuring that those audits, where proper, could be carried out on a multi-state basis, recognizing that

many of the issues of concern to the commissions would be coming across Qwest's 14 states.

That's pretty much the nickel summary of the performance measures.

If I could, before we go on. As I said, Paul and I will try to do our best to get answers to any questions today, so if it's amenable to the Commission, if the questions to us could be addressed first, then we'll know the full scope of what we're dealing with and we can get on to whatever activities are necessary to respond.

CHAIRMAN GIFFORD: I think that's the plan we intend to pursue after we give Mr. Weeks a chance to make his presentation. Then we'll start with you, Mr. Antonuk.

MR. ANTONUK: Thank you.

CHAIRMAN GIFFORD: Commissioner Page?

COMMISSIONER PAGE: Mr. Antonuk, you said something about you included measures that weren't included in the ROC OSS auditing them. Why was that?

MR. ANTONUK: I've always seen the PID as having two purposes. One, I think is short term and related to 271 entry and one longer term.

The short term purpose was to serve as

a basis for the test administrative design to conduct a test and achieve results. That purpose I think comes and goes.

The longer term purpose is to make sure that every material aspect of Qwest's performance to CLECs is measured, whether it was tested or not. That's a broader set of measures.

After the test, the PID will stay around in the form of the PAP, Performance Assurance Plan. The measurement requirements of the PID form the basis for the PAP provision. Whether it was tested or not, if a PID continues to have validity or vitality, let's call it, because it's included in the PAP, then there's a need to make sure that the way that performance is measured because it can have in some cases significant consequence in terms of the payments that Qwest would be obliged to make to CLECs.

COMMISSIONER PAGE: Just because it wasn't listed doesn't mean that it shouldn't have been maybe included in some kind of PID definition to include in the performance Assurance?

MR. ANTONUK: That's correct. You said "listed." I would say because it wasn't tested doesn't mean it shouldn't stay around and be included. Obviously each state is now deciding for itself which

of these PIDs should have what kind of consequence in the RAP.

COMMISSIONER PAGE: Okay. Thank you.

CHAIRMAN GIFFORD: Mr. Weeks?

MR. WEEKS: It's a pleasure to be here today. I represent the well over 100 different KPMG Consulting professionals that worked on this test over the two-year period. Some, like Mr. Antonuk, of the folks who were part of that team are here in the room today to help answer questions if I can't do so, so I will invoke the same divine intervention that they did.

If I could briefly describe the structure of Exhibit 2 so you know what's in that document, and then I'll proceed to go through it in a way.

Pages 2, 3, and 4 attempt to summarize the various report sections and to classify the number of evaluation criteria that fell at the end of the test into satisfied, nonsatisfied, unable to determine, or diagnostic. I'll define each of those as we go through the presentation.

Pages 5 through 15 discuss the individual evaluation criteria in the test that fell into other than satisfied criteria, satisfied result.

Starting at page 16 is a summary of the observation and exceptions for each of the vendors, just a high level score card. For the ones that were closed, unresolved, or closed inconclusive, following those are some descriptions about what those observations and exceptions were about so that we could talk about some of the things, Chairman, that you were referencing in your opening remarks.

The test itself was very broad ranging. The master test plan that Mr. Center referred to earlier was our Bible. That is the description collaboratively agreed to as what would be tested and what would not be tested. To amplify on Mr. Antonuk's previous answer, there were certain of the PIDs that it was not practical to test during the course of the actual design of the MTP. We chose not to explicitly test those things. There are also things that we tested during the course of the test for which there was no corresponding PID. We made a lot of evaluations of Qwest's methods and procedures and documentation and things like this during some of our testing for which there are no existing PIDs today that cover off those topic. If you look at a VIN (sic) diagram, there are things we tested for which there are no PIDs, there are PIDs for which there's

nothing really designed into the test, then there's the middle ground where it was both in the master test plan and in the PIDs and we've reported that in the results of the test.

If we could think about the test in a top-down fashion, there were what we call domains or functional areas in the test that we broke things down into that represent different facets of Qwest's business processing.

You'll hear the phrase POP, preordering, ordering, and provisioning. That domain or that group of business functions are about the business of understanding what a customer has installed during the sale cycle for a CLEC, being able to ask questions about their facilities, what kind of products and services and things they have installed, how many lines they have, what features they have, those sorts of things, as well as the ability to arrange for an appointment to reserve a new telephone number if I'm establishing new service. These kinds of things are preordering activities. They're the ordering activities where a CLEC either asks through a local service request LSR or ASR, access service request, for Qwest to do something on their behalf that changes in some way shape or form the network or

the definitions of network, so it might be to migrate a customer from Qwest retail operations to the CLEC, it might be to add a new line -- second line for a fax or something like that, or to go in and change features such as add Call Waiting or Call Forwarding or something like that. Those are the ordering activities. Then there are the provisioning activities. These are the things that Qwest does behind the scenes to go bring the network and the elements in that network into compliance with whatever was ordered by the CLEC in their order.

So these three activities, preordering, ordering, provisioning, are the beginning and the end of the sales cycle, if you will, for individual transactions or individual business events between the CLEC and the wholesale operations of Qwest.

If you look at the report sections beginning with Section 12 down through Section 15, the report is broken into chapters, if you will, so 12, 12.7, 12.8 and so on down through 15, are the test areas, the individual chapters in the report where we describe what we did, how we did it, what we found, what problems or issues that we encountered during the test for the preordering, ordering and provisioning

areas. I'll come back to those and we'll drill down on those in a minute.

Starting with 16. Sixteen, 17, and 18 through 18.7 and 18.8 are what we call the maintenance and repair, or M and R, areas of the test. These are the sections of the test where we talk about how CLECs use interfaces, use capabilities that are offered to them through the wholesale interfaces to report troubles on a line subsequent to its turnup and its provisioning. So there's a line in the sand, if you will, between provisioning, which is the end of that is the customer has dial tone, the circuit is enabled, everything is go. Anything that happens after that in the way of I didn't get the feature I ordered, I can't make a call, I'm having trouble in one way, shape, or form, would call into the maintenance and repair area and a trouble report is entered either electronically or through calling Qwest, and there are repairs made or at least the investigation is made as to whether a repair needs to be made. That's the maintenance and repair section where we talk about those.

Tests 19, 19.6, 20, and 20.7 are the primary tests that are involved with the billing. There's two parts to billing. The first part is what we call DUF, daily usage feeds. These are, in effect,

surrogates for detail records that are created by the switches passed on through to the CLECs so that if CLEC does any usage-based billing, they have those records about the calls that were made by the customer.

MR. WEEKS: And then the second part, which are the bills that are actually rendered to the CLECs for their consumption or use of network elements. So, those are the primary areas. The test, beyond that, for the most part, represent what we call, "relationship management infrastructure things," with a couple of exceptions that I would point out as I go through what -- which are primarily the Help Desk type of tests that were incorporated into their area. Here we're looking at how Qwest provides interfaces for CLECs to start up a business, come in and access the systems for the first time, test new releases, and so on, change management and the like, but we will talk about those as we go through.

That's kind of an overview of the structure of test. As we begin to look at each one of them, of the test areas, I will take you to page 2 at the top for 12. Test 12 is sort of what most people think about when they think about the OSS test. It's kind of the ordering pieces, the preordering pieces and so on. The significance of the rows, that very dark blue polk -- I apologize. I am color blind. If that's purple or something else -- but the very dark blue that show 52, 2, 3 and 11, and in a dark color. You will see several of those throughout the report. Those are

areas where between the interim report and the final report, we made changes, or one or more evaluation criteria results. So, if you are looking for what changed between the draft final report and the final, final report, those are the areas that had changes and that's why they have a different color.

As you can see, most of the evaluation criteria were satisfied for Test 12. But we had two that were not sat, three that were unable and 11 that fell into diagnostic. If you turn to page 5, we begin the discussion, sort of, of the not satisfies. And there are two individual evaluation criteria, and you see them there at the top, on page 5, 12-9-4, 12-9-5, that were not satisfied.

And now I need to stop and explain a little bit about the statistical nature of this test. And Mr. Center indicated that there were several statistical workshops that were held. There was actually an appendix to the Master Test Plan that describes in great detail how statistics would be applied to this test. When we were looking at performance measures, that were covered off by PIDs, it's fundamentally two families of PIDs. There are those that are defined as parity measures, where the measurement is comparing Qwest's retail operation

performance to Qwest's wholesale operation performance. And there is an expectation of parity. The wholesale will be as good or better than the retail operations. In those cases, in order to address concerns that the results of testing, because we were sampling and not looking at the entire population of transactions over the test period that a test could be performed, and if there isn't sufficient transactions run, or just due to the general nature of sampling, that we might make the wrong inference that, in fact, say that Qwest's wholesale and retail operations were the same, when they are not, which was -- appears of concern to some of the parties. So, we actually did what's called a "dual hypothesis test." We would test both the hypothesis that wholesale and retail were the same and the hypothesis that wholesale and retail were not the same. And this is a statistical test that we're performing, after having run transactions, and so on. We would take our results and submit them to statistical analysis. And if both tests indicated that Qwest passed, or both tests indicated that Qwest failed, then we would go with that conclusion. However, if one of the tests indicated that -- a pass, and the other indicated a fail, that's a -- no decision. You had a conflicting result. What that

says, it's too close to call from just the sheer use of statistics.

By prior agreement, prior to the start of the test, if there was, after no decision, that would be taken to the steering committee to resolve. If the steering committee could not resolve it, it would be taken to the executive committee and so on in the escalation process I previously described. So we have, in 12-9-4 and 12-9-5, with respect to the timeliness of jeopardy notices, is we have a statistical test that was a parity measure in these cases that said, jeopardy notice and retail notices in wholesale have to be delivered on a timely basis in both cases. That's very similar. Then, the test, the dual tail statistical test gave us a no decision. Now, in part, that is due to the fact that there's a small sample size in these cases, which is kind of good news. We can't, as an outsider, submitting transactions, generate a situation for Qwest needing to send us jeopardy notice. The jeopardy notices often happen because of either the facilities that needed to be provided aren't available on a timely basis to meet the order, or there's just been some problem with work force in scheduling, in just getting people at the right place at the right time. Those are the two most common reasons for

jeopardy.

As a tester, one can't cause that to happen. Those are conditions that have to exist inside of Qwest that we didn't manufacture. So, we didn't see a large number of jeopardy notices during test. And, therefore, we have a small sample size, and with small sample sizes, when the results between retail and wholesale are reasonably similar, then what you have is you have a higher probability with small sample size that you are going to have a no-decision due to the dual tail test. That's what happened here.

So, when it was taken to the steering committee, the decision was taken that there would be a not satisfied assigned by the steering committee in this case. Is that clear as mud?

CHAIRMAN GIFFORD: Yeah.

MR. WEEKS: That's an example of a couple of places in the test where we apply the dual tail test, and we wound up with a nonsat result here.

If I could then move to the unable to determines on Test 12, because that illustrates another concept or principle we uncovered during the test. At the top of page 7 you will see 12.9.2, which it, again, for jeopardy notice here, rather than having a timeliness requirement that was controlled by a PID,

which, per agreement of the test, would be subjected to the statistical test, we had an evaluation criteria not controlled by statistics, which was, did those jeopardy notices come to us well in advance of the due date. And because this was not a statistical test, we used -- this is an example of where we used our professional judgment. In our professional judgment, there were not enough jeopardy notices seen during the course of the test for us to feel comfortable providing an opinion as to whether this was satisfied or not satisfied.

So, in the course of this test, when there was an evaluation criteria that was not directly controlled by a PID, KPMG Consulting established a standard and measured Qwest's performance against that standard, and our standards are articulated in the comments section of each of the reports for each of the evaluation criteria. So, they are there for your examination, and you are free to agree or disagree with our evaluation criteria, as are the other parties. But it's right there. So, we show what standards we use, what Qwest's results were and why there's a satisfied or not satisfied or, in this case, unable, and all of our thinking, our rationale, is laid out in that comment section. And you can look at that or other parties can look at that and may come to you, suggest

they disagree with our standard for whatever reason. And you can hear their argument and you can decide. For the purposes of this report, we used our professional judgment in a number of cases. And in these two cases, we just didn't feel like there was enough information collected during the course of the test for us to give an opinion.

COMMISSIONER PAGE: Which two cases?

MR. WEEKS: Evaluation criteria 12-9-1, and 12-9-2.

COMMISSIONER PAGE: Where it just said, "Insufficient data?"

MR. WEEKS: Excuse me.

(Discussion off the record.).

MR. WEEKS: I am being corrected. There are PIDs on the timeliness of jeopardy notices, and I am going to correct a statement I made that jeopardy notices weren't covered by PIDs. It's this aspect of the jeopardy notice that weren't directly represented by that.

The next, 12-11-4, on page 3 of 7, is an example of another thing that existed during the course of the test, which was sometimes we would issue observations or exceptions. And Qwest would look at our results, comment back to us in writing about

whether they agree or disagreed with what we had to say, and, in some cases, chose not to conduct a retest to correct the record. In general, this was a military style test, which means test until you pass, because it is Qwest's record that goes to Washington, it's their risk if they fail to satisfy a criteria, or fail to complete the military style of test to the point where something is resolved satisfactorily. Qwest was allowed to then either take closed unresolved or closed inconclusive, or make a decision not to retest a area. And in those cases, where they chose not to retest, we did one of two things. If we had collected enough information and that had resulted in sort of a not satisfied, if you will, finding, then we left a not satisfied in the report. If, however, we hadn't collected enough data, in our opinion, to form an opinion, then we would leave it as unable. And this is an example of a case where we raised Observation 3110, Qwest looked at that, and ultimately decided not to retest this specific aspect of the issues raised in 3110.

CHAIRMAN GIFFORD: This is a human error issue?

MR. WEEKS: There are several examples of human errors, and, yes, 3110 had to do with when we

were working through Exception 3120, which was to be a retest to determine the correspondence between the underlying data about individual transactions, as we saw it, and underlying data about underlying transactions as Qwest saw it, we detected that we were recording certain dates differently than we expected that they would. And Qwest acknowledged that, made some changes. We then submitted a large number of orders that were supposed to all flow through the system, not supposed to be touched by human beings and we anticipated that they would all flow-through. Then, we could test whether the recordings of these dates by the systems were properly done or not.

Well, in analyzing the results of that retest for 3120, we discovered there were a handful of orders that had fallen out from manual processing. And in looking at those orders, there were a number of those where the reason they fell out was an acceptable explanation by Qwest. But when we looked at how the reps had manually entered dates, they had not manually entered the date correctly. One out of those orders that had fallen out. One out of the eight, I believe, is the number, subject to check. And so, where we found ourselves, then, is, well, we had this -- we didn't expect to be in this place to begin with. We

didn't expect the order to fall out. And we, you know, didn't necessarily expect, therefore, that a human being would have made an error. But because there was one out of eight, there was a doubt there, then, as to whether or not the manual process for recording these dates was working, because that wasn't the objective of the test to test that. So, because we couldn't do a retest, Qwest elected not to do a retest of the ability for manual orders to have the proper data fixed to them. That wasn't a test objective. We just said we don't have enough information to say whether this is a problem or not. So, that's what 3110 was about.

So, that's kind of the Section 12s not satisfieds and unables, and they are representative of a pattern or several patterns that one sees in the test.

So, now I draw the commission's attention, then, to the 11 diagnostic measures. And if one turns to page 12, in Exhibit 2, and continuing on to page 13, there are a list of diagnostics measures. As we have previously indicated, for the most part, the PIDs were either parity or benchmark type of standards where we did a stare and compare. It needs to be 95, and either it was or it wasn't. And we didn't reference retail at all. We just looked at wholesale.

There was really a third kind of class of PIDs that were measures agreed to by the collaborator to be just diagnostic in measure. In other words, the pseudoCLEC would submit transactions and KPMG Consulting would analyze the results of those transactions, and we would report what we saw, but not provide a satisfied or a not satisfied result. And in those cases, we have, in the reports, I will give an example. 12-3- 11, which is the first one on page 12. We observed that Qwest employed timely preorder error message responses to the GUI, and we measured 2.4 seconds. So that information is sitting in the report. You would normally have either had a benchmark standard agreed to in the PIDs, or we, KPMG Consulting, would have established a standard. We would have given satisfied, not satisfied, or unable. For these we were offering no opinion whatsoever. So, the commission should look through, in our opinion, these and determine whether the level of performance delivered for these diagnostics is at a level that is acceptable to the commission, in the absolute sense or at least consistent with what is normally delivered to commercial CLECs ongoing -- you know on an ongoing basis, inside the jurisdictions. Because we have not made any attempt at all. Even if there had been a

problem in this area, we would have culled it out. Okay. So that's Section 12, is the, you know, real guts of that.

I will try to move along more quickly through some of the other areas, because I think the results there are fairly straightforward. The 13.7 was the ability of CLECs to get preordering information about loops and their qualification for DSL of the various forms. And is the process used to do that and technology to do that at parity between resale -- retail and wholesale. And the answer is yes. 12.6 was the ability of Qwest to process manual orders as opposed to orders submitted through the electronic interfaces. Again, there was one unable to determine there. And it's somewhat related to this issue that we talked about with 3110?

COMMISSIONER PAGE: Pardon me. I have lost you. Where are you?

MR. WEEKS: I am on page 2.

COMMISSIONER PAGE: Thank you.

MR. WEEKS: Well, you're welcome. So, I am going down through the overall results just trying to kind of summarize at a very high level for you. 13 was the order flow-through evaluation. This is in most OSS tests, an attempt to understand how -- whether what

the ILEC represents should flow-through, does flow-through. And whether the level of flow-through that's being achieved is appropriate. As you can see, there was only one evaluation criteria on -- that was other than diagnostic here. So, this flow-through test is an area where we really didn't much opinion out ofthis. You can read the comment section about what we saw and what we observed, but we didn't offer too much opinion here.

Provisioning. The provisioning evaluation is one of another, Test 14.1. Another large chunk of what most people think about in OSS tests is you can see most of the evaluation criterion were satisfied. The four not satisfieds are on page 5. And the first one, well, in general, this illustrates another couple of concepts in the test. On unbundled dark fiber and EELs, in general, there was a large discussion at the beginning of the test, when we were designing the Master Test Plan, about what should and shouldn't be in the scope of the test. And especially for these emerging products. There was a concern that we may not get enough commercial operations. There was an agreement that the pseudoCLEC would not be facilities based. It wouldn't own switches. It wouldn't do those sort of things that you have to do to

test some of these physical kinds of provisioning activities.

So, we relied on, instead of activities by the pseudoCLEC, we relied upon activities from commercial CLECs who actually went to the marketplace and looked at real orders and real business activities, trying to determine whether Qwest was operating the way that it should.

So, in the case of 14-1-10 and 14-1-14, on page 5, these were situations where we initially raised observations based upon the activity -- interconnection activity that we saw, Exception 3010, Exception 3104, but when Qwest responded and made certain changes, and we went back and tried to confirm that it appeared that those changes were in effect, and that the changed process and changed documentation, changed procedures, changed systems, whatever Qwest had done, when we tried to verify adherence by Qwest, to those changes, we were stymied, because there weren't enough interconnection activities in those areas for us to get a large enough sample for which we could draw a conclusion. So, that's a pattern that repeats itself a couple of times in the test, where there just weren't enough commercial observations. Even though Qwest attempted to make these changes, we couldn't validate

that it worked, the medicine had worked. So those are those two.

And then the next two, 14-1-34, 14-1-36, are in the not sat. Well, let me back up to the first two, because we had written exceptions. This is an example of where we had found problems, and we couldn't prove they fixed them. We left them as not sat. I may have misspoken a second ago. 14-1-34 and 14-1-46, on page 5, are examples of where Qwest chose to take the closed unresolved on some aspects of an exception. And these are PID-related measures, OP-4C, which were the installation intervals.

We had 3086, problems with performance results. Took a closed unresolved on that. And then these are the measures that -- part of the measures that were -- caused much of the data validation exercises for exception 3120 that we went through. So, the bulk of this not satisfied comes from the 3086 area. Okay. So, those are the not sats there.

If you go to the unables for Test 14, those start at the bottom of page 7. First three there, the OP-6A PID type of things, which are delay days. Good news. We didn't see a lot of that in the test, meaning Qwest didn't get themselves into this situation very often is the good news. The bad news is

because of that, we didn't have enough data that we could really offer an opinion on whether that works well or not.

The top of page 8, you see 43 and 44. 43 is other PIDs. We didn't have enough data. And 44 is this issue we talked about, because we couldn't do the retest of the manual data date thing, we couldn't resolve this one to our satisfaction. 14.7 looks at the process for provisioning, compares retail to wholesale. By design, Qwest has the same field force and same process doing the provisioning of both retail and wholesale. Same people go out and retail and wholesale, so they aren't too different. Mechanisms to get those orders in are different, but once it hits the back office, they have to go do things in the network. It's done by the same field force either way.

And then provisioning coordination is 14.8, is unique to wholesale in the sense that it talks about activities that have to be coordinated between the CLEC and ILEC, to gets things like hot cuts done. And all of those tests were passes.

The 15 is the POP volume test. This is where we run a large volume of transactions through Qwest's interfaces to try to see if it looks like they scale up under workload. There's the concept of a

normal day. The concept of a peak day, which is about one and a half times normal day, and then the concept of a stress day, which is roughly 2 and 1/4, 2 1/2 times what a normal day is. And we tried to look at their interfaces and see if they continue to operate on a timely basis, and return responses in a timely basis in the face of large workload. And Qwest passed those, very handily. That's kind of the end of the preordering ordering provisioning kind of results.

16 and CEMR. This is an electronic interface for turning in trouble reports. You can see the evaluation criteria there, for the most part, were satisfied. The only problem we encountered there, look at page 6, 16-3-5, during the volume test for CEMR interface, there was one transaction type, which is a modified trouble report that had been previously entered. That transaction failed to happen, according to the standard. It took longer than the standard called for. And Qwest chose not to pursue that and do any more further testing on that. There's a closed unresolved for 3107.

The Test 17 is a MEDIACC, EB/TA. It's another electronic interface for turning in trouble reports. Fast electronic bonding, kind of a machine to machine, computer to computer. CEMR is the graphical

user interface that,if you will, that some human being sits down at the CLEC and enters the trouble report. MEDIACC, there's a computer system at the CLEC that's hooked to some other part of their OSS that they can use to turn trouble reports in. And that all had satisfied evaluation criteria.

Turning to page 3, the M&R NTN trouble report processing. This looks at how -- sort of the how soons. Now, that the trouble report has been turned in, how does Qwest do at actually working through that trouble, investigating it, making whatever repairs are necessary and resolving that. Two not sats in that area.

Go to page 6 and you will see 18-6-1, Qwest and KPMG Consulting have sort of a difference of opinion. We agree to disagree. And Qwest took a closed unresolved on Exception3555. Closeout code is a code that the field technician places on their internal work order that says where was the problem, and what did I do to fix it, essentially. And we have found inaccuracies in the code that field people assigned to those. And we basically have the disagreement on how important that is, and what the impact of that is. So, in the advocacy cases, I am sure you will hear about that particular issue.

18-7-1 is closed unresolved. And 3058, this had to do with troubles that we actually inserted into the lines. And we had a certain expectation of -- about how those would get fixed, and how those would get reported. And when we went to look at Qwest's internal records, after they had made the repair, we didn't see what we expected to see. So, we have got a agree to disagree on this from Qwest as well, and their position is well-documented in the -- in both the exception closing position statements, and in our report. And I am sure parties will talk to you about this one as well. So that's Test 18.

There was one unable on Test 18. Go to page 8. There was a, near the end of the work we were doing to test here, we wound up with a closed inconclusive on Exception 3053 where the results that we saw just weren't depositive of whether it had gotten resolved or not. So we gave it an unable, because we just didn't develop enough of a record to understand whether that was resolved or not. That's 18.

18.7, I am going back on page 3 now. Work Center Support Processes. These are the work center activities that are behind the scenes, that support the maintenance and repair activities, the evaluation work. Criterion were satisfied there. The

end-to-end process, which looks at -- whereas -- well, 18 looks at the reporting aspects of the process. 18A looks at sort of the entire life cycle of repairs, and looks at the inside, what Qwest is doing inside the walls there. That was fine.

Now, we have to move over the maintenance and repair and we move into billing. 19 is the DUF test. After several attempts to do that, we finally got through that and found that we were able to get DUF files that were accurate. 19.6 is looking at how Qwest manufactures DUF files and whether the processes, and so on, associated with that are well-formed and appear to be adhered to, followed to by Qwest's internal people. If you go to the two unables, on 19.6, which is at the bottom of page 8, again, it's a case of we weren't able to make observations in this area, which are returns and status of returns, because we used the observation and exception process to communicate to Qwest when we didn't agree with the contents of the file, rather than filing through their normal business process, attempting to return DUF files. So we couldn't use that process. We didn't evaluate it. Didn't use that process.

20 is the billing test, where we looked at the bills rendered to the CLEC by the ILEC to

determine if they were correct or not. This involved having a test bed of accounts, submitting orders, taking the usage information out of the DUF test for the calls that we had made, tracking and looking at the usage-based charges, looking at nonrecurring charges, recurring charges, and fundamentally are what most CLECs get back. That's what 20 is about. All those evaluation criteria is satisfied.

20.7 is the manufacturing process for billings. In there, we had four unables, and this illustrates another point that I would like to make that we ran into in the test. Those are on page 9. And what we fundamentally found ourselves in a situation where many of the controls that -- check and balance type of controls, the auditing management control feedback loop type of things, that we wanted to inspect were, in fact, embedded in software. And are difficult, if not impossible, to inspect directly. And so, we could look at the fact that we had invalid bills and make the inference that the QA control process may not be working, because otherwise we wouldn't have gotten the incorrect bills. But once the bills were correct, we couldn't prove, by just looking at the bill, whether it was because they were manufactured correctly or because these controls operated and

detected problems and made them fix and ultimately the bills came us to. So it was kind of those Catch 22, from Qwest's perspective, where we could prove that it wasn't working because we couldn't prove it was, because it's embedded in kind of software. So, you have that case here. And it's kind of just an artifact of testing.

As we move into the remainder of the test report sections, most of these tests were not done sort of on -- in a pseudoCLEC, what I call a, "black box," kind of way, where you can't really see what's going on behind the screen and you sit outside, trying to act like a CLEC. You try to use their documentation and send things over, and see if the system behaves right and they do what they ask them to do, which I characterize as black box testing. We kind of did a lot of it through this pseudoCLEC ourselves. A lot of this is what I called, "white box testing," where we actually walk inside of the walls of Qwest and we conduct interviews, we do walk-throughs, and we look at documentation, and we look for adherence artifacts. If they are doing planning process, there ought to be some planning documents somewhere. We're looking at the wholesale procedures that sit behind that wall that CLECs can't see through, trying to understand if things

exist, if they were well-formed, and if we can see evidence that the company follows those things, and/or adheres to those things, as we move through.

And looking at 22 and on, most of these were conducted using those kinds of test techniques. So, we're not trying to pretend like we're a CLEC.

Probably the first one that you want to jump up and look at and spend some time thinking about, because I know it's a hot button in Washington, which is change management, which is Test 23. Test 23 has seven unables. Let me tell you, this is sort of the saga of change management.

There was a Change Management Process in place, and when we began this at the time. But as a result of several initiatives, some of those initiated by CLECs, some of those initiated by Qwest, some of those initiated by test results, Qwest chose to define a new Change Management Process. That Change Management Process has kind of two major subprocesses. One that governs the changes to software, and the other that governs the changes to procedures and products. And all during the course of the test, and to this day, on into the future, this continues to be an evolving set of capabilities. So, there were aspects of this that we could go examine, and see, operate, and because

it's not quite sound in some places, where we could go and look at pieces and parts of it, but maybe couldn't follow it through the entire life cycle and prove the adherence part of what we hold as a standard in all these cases.

So if we go to the unables in change management, which is -- starts on page 10, we see that they are either closed inconclusives, or we see not fully implemented. And so, what we find is that while Qwest has made a tremendous amount of progress in evolving their Change Management Process, some aspects of it aren't quite finished yet, and the -- I have tried to indicate over here, on the right-hand side, whether this evaluation criteria, for example, on page 10, 23-1-7, is a criteria that applies to the systems Change Management Process, or as 23-2-2 applies to the product and process Change Management Process. Because there are actually separate independent processes all lumped under the category of change management. So, 11 criteria satisfied, 7 unable to determines.

24. 3 is a account establishment and management review. This is about the business of setting up new CLECs, getting an account team, and the like.

CHAIRMAN GIFFORD: Question.

COMMISSIONER DYER: Thank you, Mr. Chairman. Back to 23, and how close are they on the change management to completion would you say?

MR. WEEKS: Well, there's two parts to your question. I think one is time and the other is sort of well-formed and robustness, and I am not sure which of the two you meant to ask about, or both.

COMMISSIONER DYER: Both.

MR. WEEKS: I will answer both. I think I would defer to Qwest on trying to represent what their schedule as to the change management rollout process is. They're very close, but there are still some contentious issues, and rather than perhaps misstating, quoting information that's not accurate on record, I would suggest you might want to ask Qwest that.

COMMISSIONER DYER: Okay.

MR. WEEKS: In terms of their schedule. In terms, of the other part of the qualitative part of it, there are several contentious issues still between the parties, but I think there, as I characterized, there's a lot of progress that's been made. And they are getting very close, I think, to having a process that will be very well-formed, and if it's executed properly, it will be more than adequate to meet the

need.

COMMISSIONER DYER: Okay. Thank you.

MR. WEEKS: 12.4 is CLEC forecasting. This is a test that always kind of makes me scratch my head. There's a built-in problem with CLEC forecasting in that CLECs are hesitant to give the ILEC a lot of competitive information about what they plan to do in the marketplace. And Qwest then, therefore, has sort of one hand tied behind their back, in a normal supplier -- vendor supplier customer kind of notion. You know, you want to know what your customer is doing so you can have the right plant material, all that kind of stuff in place.

This is a case of where Qwest oftentimes has to use their best guess and projections of what's installed already as opposed to relying heavily on what CLEC will tell them, just the fundamental nature that's created by Telecom Act of '96. CLEC training, we found -- this is how CLECs go and get trained on various products and interfaces, and so on. Those are all satisfied. The companion change management, Test 23 is really Test 12.6, which is the OSS interface development review. I characterize that as what I call, "release management,"as opposed to change management. If change management is about the business

of defining what the interfaces are going to be, and how those are going to change over time, and properly noticing parties to those changes, and properly prioritizing everyone's requests about what they would like to have changed, the wish list, but the end of that process is a bunch of dead trees. It's just paper. What happens, then, is that what we're going to change, and when we're going to change it, and how we're going to change that specification is thrown over the wall to the development team that actually have to change products and documentation and systems and so on. When they do that, before they put that new stuff, whatever it is, out into the CLEC community, before they release a new version of the software, for example, there's a general belief that it's a good thing that CLECs get a chance to test that, to test that they have properly, on their side of the wall, made what they make in the way of changes in order to work with the new release of whatever the software or the document, the business rules, whatever is changed. And so this 24.6 is about the business of trying to understand about whether the processes that allow CLECs to go in and test a release of something before it goes into production, and they have real orders in jeopardy, is well-formed and is being followed.

So, there are a couple of not satisfieds that are at the bottom of page 6 in this area. One has to do with the standalone test environment, SATE, which is commonly known as "SATE." And we had closed unresolved there on Exceptions 3077 and 3095, where the fundamental issue is that the SATE environment isn't a mirror image of production, and it doesn't function and behave exactly like production. It is isolated off as a separate environment. It isn't as fully functional and, for example, orders that would flow-through in production are -- do not flow through in SATE. They are handled by human beings. Human beings stop them, look at them manually, generate FOCs and send them back. That's just an example. That was a fundamental issue. SATE is not a mirror image of production.

The next criteria talks about the fact that there isn't a standalone test environment for testing the electronic bonding interface for trained and trouble reports. That's a closed unresolved on 3109. Parties will, in both of these cases, do some advocacy with you about the relative importance of these issues, but they are not satisfied in our reports.

Back to page 4. 24.7 is the wholesale systems Help Desk. It talks about the support that's

provided to CLECs when they are doing their interface development work, and so on. 24.8 is the ISC support review. This is sort of the Help Desk for ordering, and how well that all works. 24.9 is network surveillance and outage reporting. This is what does Qwest have in place to monitor the networks and when its networks go down, and to tell people they are down. That's a common set of activities that's done to the entire network. The people that operate the network really don't care, wholesale versus retail, it's the same. 24.10, billing Help Desk.

And that kind of concludes the very high level overview of the very, very large report. But hopefully, that will give you a feel for what we tested, at a very high level, what we found. And I know Qwest fixed a ot of things during the course of this test. There are a ot of observation. There are a lot of exceptions. I haven't taken you through my document, in the interest of time. But that, you know, we have tended to dwell on the negative here, but I think that's what you asked us to focus on, so that's what we did.

CHAIRMAN GIFFORD: I had a feeling, based on the written comments, we'll be drilling down quite a bit into some of it, Mr. Weeks.

Why don't we take, at this point, a 10-minute break. Give Harriet a well-deserved rest. And we'll come back and hear from HP.

(Recess.)

CHAIRMAN GIFFORD: Okay, we'll go back on the record after a morning break. We just heard --

MR. WEEKS: Mr. Chairman, could I make one brief correction to my previous statements?

CHAIRMAN GIFFORD: Certainly.

MR. WEEKS: I had slightly misled -- or misspoken -- I think, the Commission on the difference or the distinction between the not satisfieds, on page 5 of my Exhibit 2, 12-4 and 12-9-5, which, I indicated both had been referred to the steering committee because the dual tail test had given us a no decision. That information is correct.

If we look at the enables on page 7, 12-9-1 and 12-9-2, the italicized information there says, insufficient data from the test. That's accurate. I think I misrepresented that these weren't covered by PIDs. In fact, these two 12-9-1 and 12-9-2 were covered by PIDs but we had zero observations; therefore the sample size, even though in the other two cases it was very small and led to a no decision in the dual tail test for 12-9-1 and 12-9-2 we had zero observation which is means we couldn't apply the parity test at all.

CHAIRMAN GIFFORD: Okay.

MR. WEEKS: That's the distinction of why

two are unable and two are not satisfied.

Thank you.

CHAIRMAN GIFFORD: Now turning to HP, gentlemen -- I haven't been sworn. If you could introduce yourselves.

MR. MAY: Do you want us to do that now?

CHAIRMAN GIFFORD: Introduce yourselves for the record, state your name and spell your last name, and then I'll swear you in.

MR. MAY: Good morning, Chairman Gifford, Commissioners Page and Dyer

My name is Jeoff May, J-e-o-f-f M-a-y with Hewlett-Packard Consulting. And also with me --

Don Petry, P-e-t-r-y.

CHAIRMAN GIFFORD: Gentlemen, if you would raise your right hands.

JEOFF MAY and DON PETRY,

having been called as a witness, being first duly sworn, testified as follows:

CHAIRMAN GIFFORD: Please proceed.

And we're working off of what's been marked as Hearing Exhibit 3.

MR. MAY: Good morning, again.

HP would briefly like to summarize for you and the record its ROC P-CLEC test effort. We'll

begin by summarizes several important P-CLEC principles, mostly from the test requirements document or TRD and then review the two major phases of P-CLEC testing which are the building of P-CLEC and the execution of the transaction tests. Finally we'll summarize for you the P-CLEC test results and reports.

Moving to page 3: To begin with, I want to quickly highlight several important P-CLEC principals guiding the P-CLEC test execution. From the TRD, Principle 8 holds there will be no special treatment for the Pseudo-CLEC from Qwest. The P-CLEC will use only publicly available documentation and assistance. TRD Principle 12 directs the P-CLEC vendor to evaluate Qwest's wholesale development support given to the Pseudo-CLEC as it builds its own electronic interfaces.

The ROC also asked HP to operate the Pseudo-CLEC in the expansive mode as compared to previous state OSS tests; that is, the you Pseudo-CLEC was to recreate the CLEC experience to the fullest extent feasible.

Turning to page 4: So beginning with the building phase of the Pseudo-CLEC, we take note of some of the Act Management Activities; in early July of 2000, the Pseudo-CLEC began interactions with its

assigned Qwest management team following the documented Qwest processes for establishing a CLEC and executing interconnection agreements in all states.

For two years HP documented the P-CLEC's weekly calls with its wholesale account team. These calls were open and noticed to the ROC TAG and all meeting minutes and issue logs were also made available to the TAG distribution list.

Page 5: HP built a P-CLEC operations center here in the Denver area, deploying technical infrastructure including dedicated T-1 access to Qwest's OSS. We developed -- we deployed five telecommunications industry subject matter experts and trained 24 customer service representatives, developed an incidental contact database to capture all OP center interactions with Qwest and completed various Qwest web-based, downloadable and instructor-led training.

I would like to ask now for Don Petry to review the electronic interface development during the building phase and then also the transaction test phase.

Mr. Petry.

MR. PETRY: Good morning, Mr. Chairman, Commissioners.

Turning to page 6, the largest set of

tests associated with building the P-CLEC involved interface development and implementation. The P-CLEC developed electronic interfaces to Qwest's OSSs for IMA EDI, IMA GUI, DUF, and other usage-related exchanges; CRIS, the wholesale invoicing; maintenance and repair using CEMR; and the loss and completion reports.

If you turn down to page 7, the P-CLEC executed EDI interoperability and certification testing following the Qwest EDI implementation guidelines and processes, the P-CLEC certified on four IMA Releases 5.0, 6.0, 7.0 and 8.0. And this included recertification and release migration activities associated with IMA EDI Releases 6.0, 7.0 and 8.0.

I would also like to note that the IMA Releases 5, 6, and 7 were based upon the local service ordering guide or LSOG, L-S-O-G, Version 3; while IMA Release 8.0 was based on LSOG Version 5.

Turning now to page 8, similar to the P-CLEC account management activity as described by Mr. may, all calls between the P-CLEC and the Qwest EDI implementation team were open to the ROC TAG. All meeting minutes, project plans, scenario and test summaries documentation and question logs were published to the TAG via the E-mail distribution list.

HP also performed detailed analyses of

Qwest's EDI disclosure documentation for Releases 5, 6, 7, and 8.

Turning now to page 9, please.

HP's review of the Qwest's EDI interface support included comparing documentation to industry publications such as the Ordering and Billing Forum or OBF, the Telecommunications Industry Forum, TCIF, and the American standards Committee X-12.

HP reviewed Qwest's product documentation and wholesale websites. HP also performed preorder-to-preorder, and preorder-to-order data integration analysis as well as implementation.

Turning now to page 10.

HP published our analysis results as the following: Documentation logs, question logs, Qwest generated system change requests known as CRs and also observations and exceptions.

Turning now to page 11.

I would like to now turn to HP's second major phase, the execution of the transaction test. KPMG Consulting, as test administrator, acted as a marketing or sales department issuing test orders to the P-CLEC operation center on a daily basis. HP's test harness would then electronically transmit the transaction data back to KPMG Consulting for their

analysis.

Turning to page 12, please.

The P-CLEC submitted transactions in support of many of the MTP or master test plan tests including tests 12, 13, 14, 16, 18, 19, and 20. And the full description of those tests are included there on page 12.

Turning to page 13, HP also developed and implemented test harness technology for successful execution of IMA GUI -- that's G-U-I -- EDI, and CEMR -- C-E-M-R -- feature function and value testing.

Turning now to page 14.

During the course of the test, the P-CLEC processed approximately 125,000 feature functions related transactions. If you were to look and include the volume test transactions, there are well over 1 million records in the HP test transaction databases.

And at this point, if you would turn to page 15, Mr. May will finish the HP presentation at this point.

MR. MAY: So to summarize at a very high level the P-CLEC test reports and results, HP's interim report was published in March of 2001 and covers the building phase of the Pseudo-CLEC. We issued, in April of 2001, an electronic bonding for trouble

HP's final reports also included four appendices, Appendix 4 summarizes all HP observations and exceptions; Appendices B and C represent field comparison reports for preorder and/or order integration of EDI Releases 7.0 and 8.0. And you will recall that Mr. Petry pointed out that EDI Release 7.0 is LSOG 3 based review where -- while release 8.0 is actually an LSOG 5 based release. Appendix D documents P-CLEC's expectations of Qwest's account management team.

Moving to page 22: To summarize test results -- I'm sorry, page 21. To summarize test results in HP's discrete reports, in the Test 10 report 106 of 108 evaluation criteria were reported as satisfied. Two were reported as not applicable.

In test -- in the Test Report 12, 20 of 20 evaluation criteria were report as satisfied.

And in the 24.8 report, two of three evaluation criteria were reported as satisfied, one being reported as not applicable.

And now moving to page 22: To recap HP's ROC P-CLEC effort, HP generated an extensive record including reports on four IMA EDI releases, studies of preorder to order integration on EDI Releases 7 and 8, and actual preorder to order data integration on IMA

EDI Releases 6 and 7.

HP tested 14 preorder functions, 17 Qwest products, and five post-order functions, all consistent with the MTP's Appendix D which laid out the test objects.

HP issued 184 observations and exceptions over and above those issued by KPMG and Liberty Consulting.

The ROC 271 P-CLEC activities represent the broadest scope of any 271 test HP has been involved in. HP's effort resulted in dramatic improvements to Qwest's wholesale documentation and a comprehensive review of preorder to order integration.

At this time we'll be happy to take questions.

CHAIRMAN GIFFORD: Commissioners, anything.

MR. MAY: Or do you want to circle back?

COMMISSIONER DYER: No.

CHAIRMAN GIFFORD: I'm sure you will get some soon but I think we're going to go now to Mr. Antonuk.

(Pause.)

CHAIRMAN GIFFORD: Okay, I think the next plan is to go to vendor questions starting with

Mr. Antonuk. And Qwest begins, then the CLECs get to question Mr. Antonuk.

And I'll remind you you remain under oath.

MR. CRAIN: To make this easy, we have no questions of Mr. Antonuk.

CHAIRMAN GIFFORD: All right, I'll turn to my right then and ask the CLEC table, broadly denominated, if they have any questions.

MS. TRIBBY: I have a couple, Your Honor.

EXAMINATION

BY MS. TRIBBY:

Q. Good morning, Mr. Antonuk.

A. Hello.

Q. Are there any PIDs that are still being audited by Liberty Consulting?

A. There are a small number which I don't have at hand. None of them were test-required PIDs, but there are several that remain outstanding.

Q. Do you know when the audit of those PIDs will be completed?

A. I don't have the schedule. I think the -- the expectation was all the work was within our control was scheduled to be eminently completed. What I'm not sure is whether we're still awaiting any

document by Qwest. But I think that's probably something that Bob Stright could -- could give you off the top of his head Wednesday or at a break I can find out this morning.

Q. Will there be a subsequent addition to the written report when that work is completed?

A. There will be release reports in the event that they are released.

What I guess has probably not been decided is what to do if we reach a situation where we have some that are unreleasable; because it is not my understanding that we anticipate a full scale supplementing of the -- of the original report.

Q. And you are not sure if those reports or those supplements will be out this week or not?

A. I am not.

Q. Thank you.

MS. TRIBBY: That's all I have.

CHAIRMAN GIFFORD: Ms. Doberneck, anything?

MS. DOBERNECK: No, I don't.

MR. DIXON: No questions on behalf of WorldCom, thank you.

CHAIRMAN GIFFORD: Ms. Jennings-Fader?

MS. JENNINGS-FADER: Nothing from

advisory staff, thank you.

CHAIRMAN GIFFORD: Well, Mr. Antonuk, I don't think anyone has much to ask of you. That means you did a thorough job or Mr. Stright is in big trouble.

THE WITNESS: Whatever the reason, I appreciate it.

If it meets your pleasure then, if I could be excused, I would.

CHAIRMAN GIFFORD: Please.

THE WITNESS: I would be even more pleased.

Thank you.

CHAIRMAN GIFFORD: Now I think next we'll take questions of MTG and you, Mr. Center.

Welcome back, Mr. Center.

Mr. Crain?

MR. CRAIN: Once again we'll make it easy: We have no questions of Mr. Center.

MS. TRIBBY: Nor do I, Your Honor.

CHAIRMAN GIFFORD: Ms. Doberneck?

MS. DOBERNECK: I just have one -- is this on?

CHAIRMAN GIFFORD: Yes.

MS. DOBERNECK: I guess so.

EXAMINATION

BY MS. DOBERNECK:

Q. Mr. Center, it's actually precisely the same question I asked you last week, which is just a point of clarification on your presentation this morning which was Exhibit 1. At page 5, under MTG, there is a second bullet point stating that MTG managed overall schedule and quality; and to clarify this record, could you please state what you meant or how you were using or how you were intending to describe MTG's role with respect to the use of the word quality?

A. As you all know, there were four vendors involved in the OSS test. The actual testing vendors were KPMG, HP, and Liberty Consulting. These four vendor -- or the three testing vendors had separate roles as directed by the ROC. And the reason that the ROC wanted the three separate vendors was to try to ensure that the ROC itself had visibility down deep into the process, which was achieved.

The other side of that coin was that there were three -- the three separate vendors -- and in particular there was HP and KPMG doing the bulk of the testing, and Liberty doing the auditing. And the challenge from a quality perspective was to try to assure that the whole, when you added up KPMG's efforts

CONTINUATION

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and HP's efforts and Liberty's efforts that the challenge was to try to assure that the whole at least equaled the sum of the parts; and hopefully that we got some synergies from the interaction of the vendors.

And the quality assurance role that we played from time to time was to try to see that those pieces fit together with respect to, for example, the contributions to the IWP or the integrated work plan in making sure that all of the tasks were covered and none of them were covered redundantly.

Q. Thank you.

MS. DOBERNECK: I have no further questions.

CHAIRMAN GIFFORD: Mr. Dixon?

MR. DIXON: Thank you, Your Honor.

EXAMINATION

BY MR. DIXON:

Q. Mr. Center, I have one question: It. Relates to the fact that the executive committee and the steering committee on March 28th, 2002, issued a decision wherein the executive committee and steering committee directed MTG to continue taking an aggressive role in identifying and resolving issues in open observations and exceptions.

I just wanted you to explain briefly

whether MTG followed that direction and to what extent MTG modified any procedures or actions it had taken prior to that March 28th decision.

A. MTG's role continued to be aggressive. And to my knowledge there was no change in how MTG managed or contributed to the observation and exception process issues.

Q. Thank you.

MR. DIXON: I have nothing further.

CHAIRMAN GIFFORD: Ms. Jennings-Fader?

MS. JENNINGS-FADER: Thank you, Mr. Chairman.

Nothing from advisory staff.

CHAIRMAN GIFFORD: And, Mr. Adams, feel free to jump up if you feel disposed to say anything.

I'm sorry I forgot you last time.

MR. ADAMS: Thank you, Mr. Chairman.

CHAIRMAN GIFFORD: I noted from your prefiling you didn't think you would have questions here.

Anything, Commissioners?

COMMISSIONER DYER: No.

COMMISSIONER PAGE: Nothing.

CHAIRMAN GIFFORD: I don't think we want to say anything or ask questions of our own

consultants.

Thank you, Mr. Center.

THE WITNESS: Thank you, Chairman Gifford.

CHAIRMAN GIFFORD: I will propose right now, based on a best guess, that we go to questions of HP, and then -- with the thought we might be able to finish questions of you, Mr. May and Mr. Petry, before lunch. And then go to Mr. Weeks, who I assume we're going to be spending much more time with.

Will that work for everyone? Is that adaptable?

(No response.)

CHAIRMAN GIFFORD: With that, we'll turn it over to you, Mr. Crain.

MR. CRAIN: Sure.

EXAMINATION

BY MR. CRAIN:

Q. On page 9 of what is marked as Exhibit 3, your presentation today, the bottom two highlights or analysis areas included preorder to preorder data integration and preorder to order data integration. Can you explain the actual work you did to build the integrated interface between preorder and order?

MR. PETRY: Yes, Mr. Crain.

HP built an order entry tool that was used during conducting of the test, similar to what a CLEC would do in terms of building both a front end system that allows their customer service representatives to enter and access data as well as provide a gateway to the Qwest OSS.

In developing that tool, we did analysis of the Qwest's preorder transactions and the data that was respond -- returned back in those transactions.

We also looked at Qwest order transactions and data that was necessary to be populated on those orders that would have a -- a CLEC would obtain that information from the preorder transactions that they did such as an address validation. Once you had validated the address for the service address, that information was used not only for other preorder transactions, but also to then be populated on the order as the service address.

HP's IT staff built a technology within our harness to capture that information coming back from the preorder, hold that available to the customer service representative, and allow them to then populate or integrate that in a mechanized fashion into the order as they were moving down to that next step.

Q. So the actual interface that HP used

during the test was integrated to the extent that it took preorder information and automatically populated the order information with that and -- to submit LSRs?

A. (MR. PETRY) Yes. And for clarification, the "automatically" is the customer service representative would have had to have selected the appropriate address. This might make -- that they were using for that order.

Q. But the customer service representative didn't actually have to retype that information?

A. No, they did not have to retype the information. That is correct.

Q. Now, you have two reports also mentioned on -- and I apologize --

MR. MAY: Appendix B, the Qwest reports.

MR. CRAIN: I'll find the page.

BY MR. CRAIN:

Q. On page 20 of Exhibit 3, Appendix B and Appendix C; and can you explain the analysis, the field comparison you did in those appendices?

MR. PETRY: Yes. In doing comparison, the analysis for Appendix B and Appendix C, we took the Qwest documentation, the IMA EDI disclosure documentation, which is the official Qwest documentation for that interface; we compared the Qwest

documentation against itself so that if there were -- you had a field that was part of an address and it was used in four or five different transactions, we compared across Qwest transactions looking for consistency and format and ability to be integrated.

We also compared Qwest documentation against industry publications such as the TCIF, Telecommunications Industry Forum mechanized specifications; and the ASC-X-12, the Accredited Standards Committee X-12 standards documentation. And the results of that analysis are captured in HP's Appendix B and Appendix C of the final report.

Q. And what was the ultimate purpose of the preorder integration field comparison report? What was it intended to determine?

A. According to the master test plan, Section 12 -- I believe .6, there are several -- three or four references in the master test plan that call for an evaluation of the preorder-order integration. HP conduct the analyses of these documentation to fulfill that as well as the actual implement -- developed implementation that we did in our front-end ordering tool to facilitate actual execution of the test.

Q. And I don't know if we have the report --

final report marked as an exhibit. If we --

CHAIRMAN GIFFORD: I know we filed it separately and it's in this record. So I think you can feel free to refer to it.

MR. CRAIN: Okay.

BY MR. CRAIN:

Q. Then if I look at page 39 of Exhibit B, which is the preorder-order integration field comparison report on 8.0, can you -- is this paragraph the summary of your findings?

A. (MR. PETRY) yes.

Q. Can you read this paragraph, please.

A. (MR. PETRY) reading from HP Appendix B, the preorder/order integration field comparison report analysis of Qwest IMA EDI Release 8.0, page 39: The integration process is highly dependent on the internal application system(s), EDI translator, telecom experience, and integration experience of the CLEC. With that stated, HPC does not feel that there are any issues that would prohibit a CLEC from integrating Qwest data with their internal application system(s). This does not mean that there are not issues that would have to be resolved between Qwest and the CLEC but simply that these issues are not in surmountable."

MR. CRAIN: I have no further questions.

practice. Conversion -- conversion of an end-user customer or a consumer can be from the ILEC, i.e. Qwest, to a CLEC; it can be from a CLEC to another CLEC, or it can be from a CLEC back to the ILEC, i.e. Qwest, in this case.

Conversion as is, means that when the customer is converted from one service provider to another service provider, all of the features and information that is on that end-user's account is retained as is in the conversion; changes are not allowed.

Q. And did HP conduct such transactions in its test?

A. (MR. PETRY) Yes, we did.

Q. There is also a concept known as conversion as specified. Could you just generally describe that for a moment.

A. (MR. PETRY) Yes. Conversion as specified means that as you were converting the customer, you are also making changes to their account. You might be adding additional features, you might be removing features. You might even be changing directory listing information or other services at that address.

Q. And, lastly, did you encounter a concept known as conversion as is with changes?

A. (MR. PETRY) Conversion as is with changes? The only change that HP, in its role as Pseudo-CLEC CLEC, observed that you could make on a conversion as is order was for the primary interexchange carrier or PIC, long distance company or the local primary interexchange carrier, LPIC, on a customer's account, no feature-based changes could be made on a conversion as is.

Q. I would like to turn to the issue of -- that Andy -- Mr. Crain, I should say, discussed, preorder to order integration for just a moment. Did HP in fact conduct preorder to order transaction testing?

A. (MR. PETRY) We -- as documented in HP's Appendix B and C, HP did -- developed technology to do preorder to order integration. We did not conduct a specific tests to test that but we developed the capability and then used that capability while conducting the other tests, Test 12, and submitting transactions in support of the other tests.

Q. On page 22 and 23 of your Exhibit 3 you discuss preorder to order integration on both pages. I'll just give you a chance to get to those pages.

With respect to page 22, you indicate in the first bullet point, the last sentence -- actually

it carries over from the last -- the last line, it carries over from the next to the last line -- that HP generated an extensive record including certification testing -- and then I'm going to skip -- preorder to order data integration on IMA EDI Releases 6.0 and 7.0. Do you see where I'm referring in that first bullet?

A. (MR. PETRY) Yes, I do.

Q. If I understand your statements earlier on page 7 of Exhibit 3, those two releases 6.0 and 7.0 are based upon Local Service Order Guideline Version 3; am I correct?

A. (MR. PETRY) that is correct.

Q. All right. It would then appear that HP did not conduct any testing of LSOG Version 5.0 based on the statement on page 22 of preorder to order integration; is that correct, for the ROC test?

A. (MR. PETRY) I would like to add some clarification to that. The HP Appendix C describes the analysis that was done for IMA EDI Release 8.0. This analysis is consistent with what was done on release 6.0 and 7.0.

HP implemented, in our front end ordering system, the actual integration for Release 6.0 and 7.0.

We did not implement that for Release 8.0 because only the volume Pseudo-CLEC was -- HP only

conducted transaction testing in Release 8.0 via EDI for the volume Pseudo-CLEC and there was not a test requirement for us to do that.

Q. And let me just be sure if I can boil that down. What I think I heard you say is that HP tested LSOG Version 5.0 for the volume or what's known as the capacity test; would that be correct?

A. (MR. PETRY) That would be correct.

Q. But that HP did not test version -- LSOG Version 6.0 or the functionality test, for example.

A. (MR. PETRY) There's -- we did test LSOG 6.0 via IMA GUI. We conducted testing in release 8.0, 8.01, even some 9.0 transactions.

And we conducted EDI testing for one product, number portability, in 8.0 where we were submitting transactions on behalf of a participating CLEC who had migrated to release 8.0.

Q. So that would mean for that one product for one CLEC you would have tested LSOG Version 5 for that limited purpose.

A. (MR. PETRY) Correct. As well as all of the volume testing or capacity tests was conducted in LSOG 5.

Q. Right. And I was focusing -- but that one CLEC we're talking functionality --

A. (MR. PETRY) Right.

Q. -- as opposed to functionality or capacity testing.

A. (MR. PETRY) Correct.

Q. You alluded to the fact you were testing GUI in one instance and did some LSOG version for -- as a preface, what preordering interface did you use? You tested with GUI and EDI --

A. (MR. PETRY) Correct. We used the Qwest IMA GUI application when we referred to GUI which is both -- contains both a preorder component and/or ordering component, a post order component, as well as there is a facility-based directory listing component.

Q. And during the functional test, did HP receive reordering information at the time that an order needed to be sent?

A. (MR. PETRY) Yes, it did.

Q. Did HP find that Qwest's documentation was complete for preorder to order integration?

A. (MR. PETRY) Our results are documented in either observations, exceptions, or our reports.

Q. Now, are you familiar with the concept of parsing, p-a-r-s-i-n-g?

A. (MR. PETRY) Yes, I am.

Q. Why don't you describe for the record

what role it might play in the preorder-order integration process if any.

A. (MR. PETRY) Parsing is the term used to describe a process by which you may take a large amount of typically relatively -- or seemingly unstructured data and break it down into component pieces that you can then work with them on a field type of level.

Qwest provides in their EDI interface a customer service request, a CSR; the response to that, via EDI, comes back as a parsed CSR, meaning the data comes back broken out so that this is a -- this is the individual field. You may get a universal service order code or USOC that identifies your feature, Call forwarding, Call-waiting; the additional details on that, so it does come back in a parsed format.

What Mr. Dixon is referring to is then taking that individual -- those individual data fields and needing to map them into a subsequent order that you are submitting for that customer.

HP did do analysis work and development work for CSR taking a parsed CSR response back and mapping it back to a limited number of products and services with Qwest. However we did not use that functionality when conducting the Master Test Plan Test 13, due to the test design. We took -- had a different

approach, but we did conduct that analysis and that actual development in implementation.

Q. And maybe just to wrap it up in one respect, what is the different approach that HP took?

A. (MR. PETRY) The second approach -- the other approach that HP took, due to the design of the test, was similar to what CLECs would do -- may do, is we created ordering templates based upon a product. If you were ordering a resale plain old telephone service, POTS-type line, we built a template for what that order would like for that type of service. If we were going to be doing Centrex, we had a template that was for a Centrex type of order. And based upon those type of activities, when you were converting or doing a new installation and -- that is the approach we actually used in Test 12.

Q. Did the Pseudo-CLEC use any preorder information provided by KPMG in its sales and marketing role?

A. (MR. PETRY) KP -- no. KPMG submitted the orders over to us, identifying very basic information as to, this is the account, whether it was a telephone number or an address; if it was for, say, new service installation. What the test case was that we had a reference point as to what type of order this would be;

and -- but, no, we did not use any preorder information provided by KPMG. We started with an address validation query and pulled all of the related preorder activity necessary to submit an order.

Q. Mr. Crain asked you to refer to a section in the report. I would like to just discuss the report you did in Arizona for minute, if I might -- and by you, I mean your company, not the two of you individually. Are you familiar with the report issued in Arizona that dealt with preorder to order integration? It was identified as Version 4.0 and it was issued on -- actually carries a release date of March 20, 2002.

A. (MR. MAY) We, we are.

MR. DIXON: All right, if I may approach the panel.

A. (MR. PETRY) Mr. Dixon, for the record, though, as we stated before, the ROC team was in the involved in the development or the production of that report.

So our comments are just based upon a cursory . . .

Q. I presume cursory review of that document is what you wanted to end with.

A. (MR. PETRY) Yes, I was waiting to see

if --

Q. First of all, just for the record, let me provide you with an electronic version of the document I have before me; it's entitled, Preorder to order integration report for 271 test generator Arizona Corporation Commission; and then I'll refer to the bottom which reflects that it is Final Version 4.0, release date 3/28/02. And it carries the name HP on the cover page. Do you see first what I'm referring to?

A. (MR. PETRY) Yes.

A. (MR. MAY) Yes.

Q. Have you had an opportunity to look at this report at least in some fashion before?

A. (MR. PETRY) Not prior to the Washington hearing.

Q. And the Washington hearing did in fact occur before this hearing.

A. (MR. PETRY) That is correct.

Q. So that might have been your first introduction to this report was in the state of Washington?

A. (MR. PETRY) Correct.

Q. I'm going to ask you to focus for a moment on page 8 of that report.

MR. CRAIN: And I guess I would object that -- to the extent we don't have the copy of the report in the record and copies of those -- that report to look at today. I'm going to object to him referring to something on the computer.

MR. DIXON: Your Honor, the report contains what appears to be a professional opinion of the company. I want them to it read into the record and ask them if they agree with it. If Qwest wishes to put the report in the record, I have no objection.

CHAIRMAN GIFFORD: I'll overrule the objection for now. Why don't you proceed, Mr. Dixon; and if we need to get the full report in the record, we can certainly allow for that.

MR. DIXON: Thank you.

What I've done is highlight in yellow a paragraph. I would ask either of you to read that out loud into the record slowly and then I'll ask you my last question.?

A. (MR. MAY) Okay reading from that report and the selected paragraph: It is HP's professional opinion based upon its review of Qwest documentation that a CSR to LSC parsing would be a somewhat challenging and complex undertaking for a CLEC with an information technology team that was not experienced in

EDI development. Other alternatives would be to contract the development of the EDI interface through a service bureau or purchase a third-party solution from a vendor such as Telcordia. There will be a number of issues that will have to be clarified by meetings with Qwest. However a CLEC with the appropriate resources, funding, time, and planning activities can build a CSR to LSR parsing interface.

Q. Do you have any more -- do either of you have any reason to want to look at this report because I have one final question and I'll leave you.

A. (MR. MAY) No.

Q. Thank you.

Gentlemen, based on HP's evaluation of preorder to order integration in the ROC test do you agree with the opinion you just read into the record from the Arizona report?

A. (MR. PETRY) We would agree with that paragraph.

Q. I would like to turn to the standalone test environment also known as SATE -- without a U. And we're done with preorder to order integration. We won't go back to that -- at least I won't.

Are you ready, Mr. Petry? I noticed you were flipping pages.

Did HP conduct any transaction testing of Qwest's SATE specifically for the ROC OSS test?

A. (MR. MAY) No, we did not.

Q. Did HP test what is known as the Virtual Interconnect Center Knowledge Initiator, also known as VICKI.

A. (MR. PETRY) No, we did not.

Q. Do you have any understanding of what VICKI is? And I'll use the acronym in view of the -- we've now identified what the acronym means if that's acceptable.

A. (MR. PETRY) Just in cursory knowledge of it. We did not use the SATE environment to conduct any of our certification activities. So ....

Q. When you were conducting tests in general concerning UNE-P -- I'm done with SATE for now -- do you recall whether test required a full service address in order to migrate a retail customer to the Pseudo-CLEC using UNE-P?

A. (MR. PETRY) Yes.

Q. And --

A. (MR. PETRY) Clarification -- that's a full service address.

Q. Thank you. I actually didn't read my question properly but thank you for correcting that. I

had that as well.

To your knowledge, does Qwest allow migration of a Qwest retail customer to a CLEC such as the Pseudo-CLEC solely by entering the customer's name and telephone number?

A. (MR. PETRY) No, they do not.

Q. If you know, it's my understanding that Qwest business rules state that a CLEC-to-CLEC migration must be completed as is. Are you familiar with any of that transactions --

A. (MR. PETRY) Yes, I am.

Q. Is it your understanding that that would mean that if a customer wants to transfer from CLEC X to CLEC Y, for example, in order to do so all features would have to be kept intact?

A. (MR. PETRY) That is a correct statement.

Q. I have no further questions of HP.

MR. DIXON: Thank you, Your Honor.

CHAIRMAN GIFFORD: Ms. Tribby?

EXAMINATION

MS. TRIBBY: Good morning.

MR. PETRY: Good morning.

MS. TRIBBY: We discussed last week in Washington Observation 2080 by HP in the ROC test that had to do with Qwest's standard interval guide. Do you

recall that?

MR. PETRY: Yes, I do.

MS. TRIBBY: Officially that observation determined that the documentation for Qwest's standard interval guide was inconsistent and unclear in terms of how the business rules were applied; is that accurate?

MR. PETRY: That is correct.

MS. TRIBBY: Now as part of that analysis as we discussed last week, HP did not attempt to determine nor make a finding about whether Qwest was applying standard intervals for CLEC customers at parity with how it applies those for retail customers; is that correct?

MR. PETRY: That is correct. That was not in our scope.

MS. TRIBBY: Did HP have personnel that was working -- that were working on both the ROC test and the Arizona test during these test processes?

MR. MAY: A very certain limited number of people.

MS. TRIBBY: Did that occur throughout the test or at various times during the test?

MR. MAY: Um, in one case you might say it was over the whole lifespan of the engagement; in other cases it was very limited towards -- towards the

end.

MS. TRIBBY: Thank you. That's all I have.

CHAIRMAN GIFFORD: Ms. Doberneck?

MS. DOBERNECK: Thank you, Mr. Chairman.

EXAMINATION

MS. DOBERNECK: I would like to ask you a few questions about slide 14 of your presentation this morning.

MR. PETRY: Yes, I'm sorry.

MS. DOBERNECK: Going down to the third number regarding order submissions, am I correct in the assumption that how those orders broke down between products was determined by KPMG?

MR. PETRY: That would be correct. And that represents original as well as supplemental order counts.

MS. DOBERNECK: Even though that information was provided by KPMG, can you give me a breakdown by percentage between the various products that constitute that 11,000 number?

MR. PETRY: No, I could not.

MS. DOBERNECK: Can you tell me which products were included?

MR. PETRY: The list of products that we

certified are included in our Test 12-A report.

One moment, I'll get you the -- if you look in HP's report, Test 12-A, page 12-A -- 12-A-12, you will see a chart that defines the preorder that actually starts -- it is Table 12-A-1.2, P-CLEC preorder/order transactions. This describes all of the preorder activities as well as the order activity that was used during the test and which -- whether it was done in IMA EDI and IMA GUI; and would which releases it was applicable to.

MS. DOBERNECK: Getting back to that 11,000 number, you stated that it was comprised of both original and supplemental LSR.

MR. PETRY: Correct.

Q Do you know the percentage breakdown between original and supplemental LSRs or if you don't know where I might be able to find that.

A It's now contained in the HP report. I don't know offhand.

Q Turning to the order responses. By using the phrase "order responses "are you identifying things such as FOCs or SOCs?

A Yes, I am. In the HP report on page 12-A-13, the last portion of the table that I referenced previously that identifies the post quarter responses and that is what we're referencing on slide 14 in Exhibit 2, that includes completions, jeopardies, LSRQs, LSR status queries, FOCs, as well as status update transactions.

Q Even though there's an indication at 12-A-12 for a completion, is that referring to a completion notice as opposed to the delivery of an actual UNE?

A That is the completion in terms of the service order completion, or SOC, that is returned back to the CLEC.

Q Now, my understanding with regard to orders that were placed and then provisioned is that the services ordered by the pseudo-CLEC and that were

actually completed relate to UNE-P resale and LNP; is that right?

A For the provisioning component, I would defer to KPMG. They conducted test 14, the provisioning test.

Q Finishing up that area. Of the 11,000 order submissions that you reference at slide 14, do you know what percentage were actually provisioned?

A No, I do not.

Q I don't recall whether it was you or Mr. May who stated as part of the pseudo-CLEC experience that the pseudo-CLEC executed an interconnection agreement. Do you recall that portion of your original presentation?

A Yes.

Q Included in the interconnection agreement was a rate sheet to determine the amount that the pseudo-CLEC should pay for the things it ordered; is that right?

A I would have to go back and confirm, but I believe it's, as well as the -- yes, we did receive a rate sheet for the products and services.

Q It was not, though, the pseudo-CLEC's responsibility to determine whether the rate sheets provided by Qwest were actually accurate and correct;

is that correct?

A That is correct.

Q During the existence of the pseudo-CLEC, it did go through some rate changes that were initiated by Qwest through rate notification; is that right?

A That is correct.

Q But it was not part of the pseudo-CLEC's task to determine whether the changed rates were correct or accurate, was it?

A No, it was not. I would defer to KPMG for their billing test for that type of a question.

Q Was it part of the pseudo-CLEC's task to determine whether the rate notifications or Qwest's method in doing that were consistent with its interconnection agreement?

A (by Mr. May) No.

Q During the -- does the pseudo-CLEC still have a current interconnection agreement or is that all wrapped up?

A (by Mr. Petry) The pseudo-CLEC is currently still an operational entity

Q Did the pseudo-CLEC go through at any point in connection with billing issues or at all during its life as a CLEC any rate changes as a result

of final Commission orders with any associated true-up?

A We may have been notified of them through the Qwest customer notification process and account management process, but we did not go through the process of -- it was not our scope to evaluate whether or not the true-ups actually occurred and as referenced to the billing. I would defer that to KPMG and their billing test domain.

MS. DOBERNECK: Thank you. I have no further questions.

CHAIRMAN GIFFORD: Ms. Jennings-Fader?

MS. JENNINGS-FADER: Yes. Staff does have some questions. If I may have a moment.

EXAMINATION

BY MS. JENNINGS-FADER:

Q Good early afternoon, gentlemen. I represent the Commission in this docket. On behalf of the advisory staff, we have a very few questions to ask you about your presentation this morning and the experience as the pseudo-CLEC.

First of all, I'd like you to turn to Exhibit 3 which is the presentation this morning. With respect to that exhibit, page 21, with respect to test number 10, it notes that two evaluation criteria

were reported, not applicable. Could you identify for us, please, what those evaluation criteria were.

A (by Mr. May) Don is going to get the exact. I believe in those two instances they were related to flow-through issues for which KPMG owned test 11 which was the flow-through evaluation. So we deemed it out of scope.

In the 24.8 report, it had to do with a response time evaluation, and when we came to look at that, it turned out that Qwest had an automated voice response system which rendered that analysis irrelevant.

A (by Mr. Petry) Point of reference. The first ones for test 10 are in the HP test 10 report, page 10-A-56, and the test cross-reference -- the first test cross-reference is 10-4-8. The second cross-reference is on page 10-A-57 and it is cross-referenced 10-4-11. If you'll give me 30 seconds on the clock.

Q Go.

A HP test report 24.8, it's on page 24.8-A-6 and the test cross-reference is 24.8-1-1.

Q Thank you, gentlemen. With respect to the transaction tests which HP undertook, did it do any interoperability testing?

A Yes, it did. All of our certification activities were done in the interoperability and certification test environment.

Q Just for our purposes, looking up the record, could you give us the citation where the findings with respect to that interoperability transaction testing is found.

A It's not necessarily a finding. It would be -- if you look at HP's interim report which describe the activities of the pseudo-CLEC, it is described there in terms of the certification activities that took place and releases IMA 5.0 and 6.0. In HP's report 12-B, we describe the activities that took place for IMA EDI release 7.0 and 8.0, but the interoperability environment was what we used in conducting our certification or recertification activities. It was not a specific test that was conducted.

MS. JENNINGS-FADER: If I may have a moment.

CHAIRMAN GIFFORD: Of course.

(Discussion off the record.)

MS. JENNINGS-FADER: We have a question for Qwest with respect to the state of the record, if we might.

Advisory staff would like to know, Qwest, if the two reports that HP has just referenced are in the record.

MR. CRAIN: We don't believe that the interim report is part of the record, but certainly 12-B, which is an attachment to the final report, is part of the record.

MS. JENNINGS-FADER: Would Qwest please make arrangements to have filed, with the Commission's permission, as a late-filed exhibit No. 4, Mr. Chairman?

CHAIRMAN GIFFORD: Correct.

MS. JENNINGS-FADER: Hearing Exhibit 4 the interim HP interim report to which reference was just made.

MR. CRAIN: Certainly.

MS. JENNINGS-FADER: Thank you.

BY MS. JENNINGS-FADER:

Q Now just one other area of inquiry. Could you gentlemen tell the Commission, please, whether HP out participated in the CICMP and/or the CMP monthly forums.

A (by Mr. May) Only from a monitoring perspective.

Q I believe also that -- were they also

monitored by KPMG?

A I believe so.

Q Are your observations with respect to that monitoring function contained in your final report?

A (by Mr. Petry) Yes, they are.

Q Where?

A They would be tied in with -- there were several observations -- HP observations and exceptions that were open during the course of the test in which Qwest's response to those deferred or directed the issue into the CICMP or CMP process. As a result, we monitored those through the test -- through the close of the test looking to see that those issues were proceeding in that arena. So it would be in the observation and exception aspect.

Q Thank you. Am I correct that Hewlett-Packard did participate in the SATE users group?

A No, that is not correct. We did not participate.

Q The reason I ask is, I got that information from a filing made by Qwest --

A (by Mr. May) Let me clarify. The ROC HP team did not participate in the SATE form.

It's possible that another team of consultants from HP perhaps involved in the Arizona tests or its subsidiaries may have. That may be where the confusion is coming from. As far as the ROC team and the ROC engagement, did not.

Q Do you have any information with respect to -- since it wasn't the ROC OSS team, let's assume it may have been the Arizona-related group. Do you have any information with respect to that group's participation in the SATE users group?

A We can't answer that definitively.

MS. JENNINGS-FADER: We hope to have all this questioning completed before lunch, may I direct a question to Qwest.

In the Qwest corporation supplemental comments regarding the ROC OSS test final report dated June 5, 2002, on page 27, the following statement appears: "In addition, a SATE users group, composed of representatives of CLECs, Qwest, HP, and KPMG, meets monthly as part of the CMP forum."

Before we let the Hewlett-Packard folks escape the questioning here, could Qwest clarify whether the reference to HP is to the ROC OSS HP group or some other HP group.

MR. CRAIN: That's an issue we will

take and try to validate as quickly as possible. We don't have an answer, sitting here right now.

MS. JENNINGS-FADER: As the record stands, HP representatives -- so the record is clear, if there was an HP group participating, it was not through the ROC OSS test group?

MR. MAY: That is correct.

MS. JENNINGS-FADER: Thank you.

Staff has no additional questions. Thank you for your indulgence.

CHAIRMAN GIFFORD: Any other questions for the gentlemen from HP? If not, we can let them go if they so desire.

You can stick around if you want to.

MR. CRAIN: Can we ask two or three more questions?

CHAIRMAN GIFFORD: Three.

EXAMINATION

BY MR. CRAIN:

Q Regarding integration, Mr. Dixon asked you about the opinion of the test years in Arizona. Building an EDI interface is a fairly complex task; isn't that correct?

A (by Mr. Petry) Yes.

Q It's something that you wouldn't

expect someone like me without experience to wake up one morning and say, I think I'll build an EDI interface today but you would expect someone with some experience to be doing that?

A That is correct. If you want it to be successful.

Q I believe Mr. Dixon read the opinion of the Arizona HP team and it stated, and I'm paraphrasing because I don't have it in front of me, that HP finds that a CLEC with the appropriate experience can build an integrated interface using Qwest part CSR. Is that essentially your opinion as well?

A That was, I believe, the concluding statement of that paragraph.

Q You agreed with that?

A Yes, I did.

CHAIRMAN GIFFORD: You're over one question.

We're at lunch. I think we're now done with the gentlemen from HP.

(Witnesses excused.)

CHAIRMAN GIFFORD: Mr. Dixon?

MR. DIXON: When you get a chance and off the record at some point, Qwest sent out last week

two versions of its filing, and I'd like to get some clarification on what we're supposed to be referring to when we get to that. I thought I would bring that up now because maybe we can do that over the lunch break.

MR. CHAIN: We sent out two versions?

MR. DIXON: Yes.

CHAIRMAN GIFFORD: Why don't we try and resolve that over the lunch break.

Let's come back at 1:30.

(Lunch recess taken.)

CHAIRMAN GIFFORD: We'll go back on the record following a lunch break.

We were going to proceed with questioning of you, Mr. Weeks, and I think you probably anticipated you would be the main event here.

MR. WEEKS: I had, and I'd like to propose that Mr. Joe Dellatorre be sworn in and allowed to testify with me, much as Mr. Petry did for MP.

I have several of our cohorts behind us that, in the interest of getting good and complete answers quickly, if it's permissible, we'll perhaps sometimes caucus with them to make sure we give a good answer.

CHAIRMAN GIFFORD: That sounds fine.

Mr. Dellatorre, welcome. Good to see you again. Why don't you state your name and definitely spell your last name for the record.

MR. DELLLATORRE: Certainly. It's Joe Dellatorre with KPMG Consulting. D-e-l-l-a-t-o-r-r-e.

(Joe Dellatorre was sworn.)

CHAIRMAN GIFFORD: With that, we'll turn it over to Qwest for questions, Mr. Crain.

MR. CRAIN: Sure. Actually, before we get to that, we'd like to address one issue that came up this morning regarding the HP attendance at the SATE user group meeting.

I would pass this to Lynn Notarianni.

MS. NOTARIANNI: The question earlier was around who were the participants, and I think in conjunction with which of our two OSS tests did HP participate in our SATE users group which is a sub group of the CICMP that takes a look at the future needs of our interface testing environment.

I did verify that in fact there have been three participants from HP, a Kurt Carlin, a Cindy Siegal, and Louise Ing, all of whom are participating in the Arizona testing effort in the evaluation of our SATE interface as part of the effort

down in Arizona.

CHAIRMAN GIFFORD: Thank you for that clarification.

Does that help you, Ms. Jennings-Fader?

MS. JENNINGS-FADER: Yes. Thank you.

CHAIRMAN GIFFORD: Mr. Crain?

MR. CRAIN: Sure.

EXAMINATION

BY MR. CRAIN:

Q Mr. Weeks, can you turn to Exhibit 2, your handout today, and turn to page 5. I'd like to walk through the not satisfied criteria with you and ask you a few questions regarding each.

The first two on page 5, criteria 12-9-4 and 12-9-5, relate to jeopardy notices. This resulted, as this document stated, from a no decision from the dual test. Can you explain the difference between the dual test used in the ROC and the single test used in places like New York by KPMG.

A Yes.

As part of the statistical collaborative, there was a decision here in the ROC that in order to be able to manage the risk associated with making an incorrect inference as a result of

doing a sample as opposed to having a whole universe to analyze, that there would be two hypothesis tested. The first hypothesis, in effect, that Qwest's systems are at parity between retail and wholesale. The second alternative hypothesis to be tested was that in fact there was a difference of some significant in the test. The testing of two hypotheses as opposed to one is something that we did here in the ROC. We only tested in the other tests in which we've been involved the single hypothesis that retail and wholesale were at parity.

So it represents an attempt on part of the collaborative that designed the statistical approach to the test to manage that risk of saying things were okay when they were in fact not.

Q That's a test that was actually ordered by the steering committee against Qwest's wishes; isn't that correct?

A That's my recollection.

Q You mentioned earlier you may get fewer jeopardy notices because of more accurate and more complete or more timely provisioning even if Qwest were to have missed significantly more orders in this test. Is there a reason you would see fewer -- you might not see or you might see a relatively small

number of jeopardy notices?

A Make sure I understand the question. I think I listed two reasons why you might get a jeopardy notice this morning. Are you asking are there other reasons why you might not?

Q Yes.

A I suppose there are a variety of reasons why you might not get a jeopardy notice, the most obvious of which is, Qwest does what it says it's going to do on time. That would be the most obvious reasonable you would not get one.

You might also not get one in the cases where Qwest is not able to determine that they cannot meet your requirements on a basis that would allow them to give timely notice. For example, some of the intervals on some of the products have same day or next day provisioning intervals associated with them. In those cases, it's probably not practical or pragmatic to expect that the order would be received, firm order confirmation generated, work done that same day, and jeopardy notice arrive in time that would help a customer understand that all this happened in a single day and they couldn't get their expectations met that way.

So those would be at least two reasons

I can think of.

A (by Mr. Dellatorre) To further support that idea of zero day and one-day intervals, the product types identified in these particular criterion are resale and UNE-P which will typically have shorter intervals, whereas for the loop products we did receive a number of jeopardies and those were a different part of the evaluation.

Q Thank you. Moving on to the next section, test 14 on page 5. The first two there, criteria 14-1-10 and 14-1-14, relate to provisioning of dark fiber and EELs. These were criteria that resulted from exceptions that were closed unresolved but not at Qwest's request but rather a TAG decision; isn't that correct?

A (by Mr. Weeks) I believe that's correct. I think if we look back at the other supporting material -- let me find the reference here. I don't see the reference. I believe you're correct in saying so, yes.

Q Do you have your test report with you?

A I have electronic copy that I can page through, yes.

Q Can you turn to what I have as page 192 but I think yours is probably page 186 or 7,

criteria 14-1-14.

A While the machine pages, ask your question.

Q The end of this -- this is relating to the EEL loop provisioning issue. The last paragraph of this section states that KPMG Consulting also formally identified inconsistencies that exist in Qwest's enhanced extended loop DS-1 provisioning documentation. These issues were subsequently closed under resolved.

My question is, isn't it the case that those issues after the draft report was issued were relooked at by KPMG and ultimately closed resolved?

A That is correct. That is an error of fact in the final report where we've failed because of work that took place between the draft and the final failed to correct that sentence.

Q So in both of the EELs and the dark fiber provisioning, you originally found issues with Qwest's documentation and other things but simply couldn't get enough commercial observations to verify that those fixes were being followed in practice; is that correct?

A That's correct.

MR. DELLATORRE: For the record, we'll

be sending out a revision page -- a single page with that specific reference updated. It's test cross-reference 14-1-14 to reflect that that observation is now closed resolved.

BY MR. CRAIN:

Q Moving on to the next criteria, 14-1-34 on page 5 of your handout. This relates to the performance benchmark for PID OP-4C installation interval for business POTS. Isn't it correct that in this particular criteria on retest Qwest passed in the central region but failed in the eastern region?

A I'll check the report here. It should say.

Q It should be approximately page 196 of your report.

A That's correct.

Q Then if you move to 14-1-36, the final criterion listed on that page, it's a similar issue, PID OP-4-C-4 UNE-P. In that criterion, unlike the criterion before, it was actually not passed by Qwest in the retesting; isn't that correct?

A That's correct.

Q In original testing, if you look at that page of the final report under 14-1-36, there was a half day difference between the average to install

between retail and for the pseudo-CLEC; isn't that correct?

A There was a different difference in each of the regions in the original test.

Q But in the central region?

A In the central region, yes.

Q It's 2.6 days versus 2.1 days?

A That's correct.

Q If you turn back to criterion 14-1-33, isn't it correct for the same orders despite that slight difference in average interval Qwest provisioned 100 percent of those UNE-P orders for the pseudo-CLEC on time?

A For the central region, that would be correct.

Q Thank you. Turning to page 6, criterion 16-3-5 relates to one transaction in CEMR capacity testing.

A That's correct.

Q Isn't it correct that for the CEMR capacity testing there were three stages of the test which were the normal volumes, peak volumes, and stress volume?

A That's correct.

Q How many criterion was Qwest assigned

to meet for each of those stages of testing?

A I believe the answer was 13.

Q So 13 for the normal test?

A Correct.

Q Thirteen for the peak test?

A Correct.

Q And then the stress test was diagnostic but the results were the 13 were reported?

A That's correct.

Q Isn't it correct that Qwest met all of those 13 measurements in the normal test?

A That's correct.

Q And that Qwest met 12 out of the 13 criterion in the peak test?

A That's correct.

Q And this relates to the one that was missed trouble report transactions where KPMG showed a 27-second average rather than the 24-second interval that was set?

A That's correct.

Q Thank you. Moving on to maintenance and repair test 18 on that page, criterion 18-6-1 and 18-7-1. For both of these KPMG established a 95 percent benchmark; isn't that correct?

A Yes.

Q And can you tell me why KPMG did not use a parity comparison here.

A Yes. In these tests, what we were attempting to evaluate here is whether or not there was procedural adherence on the part of Qwest. This is an aspect of the trouble reporting process test and we were looking at a process test on whether or not the methods and procedures are followed. So we designed our test in such a manner to understand what the process looked like and then to look for characteristics of adherence to that process during the course of the test.

There's a step in the Qwest process where the closeout code, in the case of 18-6-1, is affixed to the internal service order work order that the rep is working with, and we were trying to establish the accuracy of that coding that fields can be used, in our experience, to analyze trends over time and troubles and the like, and so we felt it was important to have accurate values in that field. So we didn't see this as a question of whether or not the process that works for retail is the same as the process that works for wholesale. In fact, there's parity by design here. It is the same process. It's the same people. So it isn't a question of parity of

result. That's parity by design in the sense of how to process works. This is a process test. What we wanted to do is look for process adherence.

There's a similar thing but slightly different with 18-7-1 where the objective of this, again, was to say we would introduce a fault and we wanted to understand whether how it got fixed and how it got reported mirrors the actual nature of the trouble that we put on to the line on to the circuit. Again, we didn't see this as a parity between wholesale and retail, it was more an accuracy of diagnosis.

Q Since you did not test this as a parity between wholesale and resale evaluation, is it correct, then, that there is no implication -- in this not satisfied for 18-6-1 and the not satisfied 18-7-1 that there's no implication that Qwest is providing discriminatory treatment between CLECs and retail customers?

A Certainly the design of the test was not to try to ferret that out, but we did not see anything in the course of our work that would suggest that there's any difference with respect to these two criteria on the results for retail versus results for wholesale, if you were to break those down and analyze

them that way.

Q Thank you. Moving on to the next criterion here, 24.6-1-8, this relates to the test environment for preorder and order which is known as SATE; isn't that correct?

A That's correct.

Q Isn't it correct that the two fundamental issues KPMG had that are listed in the final report are lack of flow-through and lack of support for all order types supported by EDI?

A Those are the two fundamental issues, yes.

Q Thank you. Then moving on to the last criterion, 24.6-2-9. This relates to NEDIACC EBTA. What EBTA is?

A Electronic Bonding for Trouble Administration is a computer-to-computer interface specification that is an industry standard where the OSSs at the CLEC are connected to the OSSs at the ILEC for the purposes of reporting troubles and checking on the status of troubles and looking into trouble-related issues where there's machine-to-machine communications set up and supported on both ends, both at the CLEC and at the ILEC by other systems other than this interface, to actually look at the

human aspects of that.

Q And this difference from -- this is an alternative to Qwest's CEMR interface. Can you explain what that interface is?

A Yes. The CEMR interface is a graphical user interface Web-based application, fundamentally, that CLECs can use to report troubles to check on the status of troubles, to conduct certain MLT tests, so on.

The purpose of that is functionally equivalent to EBTA but it's a bit easier to use. It doesn't require the CLECs to go develop any code or do anything on their side. Fundamentally, just get the right security access information and training and they can begin to use that interface to work with trouble administration issues.

Q Which one of these interfaces is more frequently used?

A CEMR would be more frequently used.

Q Isn't it true that EBTA is a relatively little used interface?

A It's rather infrequently used probably because of just the effort it takes to get that interface up and running. You would need a reasonably large volume of troubles to warrant the investment to

make an EBTA.

MR. CRAIN: That's all I have. Thank you.

CHAIRMAN GIFFORD: Ms. Doberneck or Ms. Tribby, is Mr. Finnegan continuing the unauthorized practice of law?

MS. TRIBBY: Not today. Not yet today. Thank you, Your Honor. Good afternoon.

EXAMINATION

BY MS. TRIBBY:

Q Let's turn to page 5 of your handout which is Exhibit 2 in this case. I want to focus, first of all, on 12-9-4 and 12-9-5 having to do with failure to provide timely jeopardy notices. Are you there?

A Yes.

Q Now, both of these test findings were ultimately resulted in a fail finding once this went to the steering committee, correct?

A That's correct.

Q And for both of these criterion, you had enough of a sample size to reach statistically valid findings, correct?

A By agreement in the statistical workshops, if there were observations in a parity-type

measure, then we were to perform the dual tests and if the dual test came up with a no decision, we were to escalate or ask for resolution of that. So the requirements of the workshop were that we perform that analysis unless there just were no observations.

Q Just to be clear, the no decision resulted from having a pass in one of the tests and a fail in the other statistical test, correct?

A Correct.

Q So to answer my question, your sample size was sufficient that you were able to make statistically valid findings with respect to the dual tests

A (by Mr. Dellatorre) Everything over zero is a large enough sample size to force us to do the dual task by the agreement originally reached.

Q You're not suggesting that the only reason this resulted in a no decision was because of the size of the sample, are you

A (by Mr. Weeks) No. We're suggesting two things. One is that it was a requirement of the design of the test that if there were observations on a parity measure and we got a no decision, we were required to have the steering committee or others resolve that.

The second thing we're trying to say is that as a sample size gets smaller and smaller and smaller, the probability that you'll get a no decision gets higher and higher, so I was struggling with statistical significance in your question is why I answered the way I did.

Q With respect to these jeopardy notice findings, when you answered some questions by Mr. Crain, you talked about the possibility that one would not receive a jeopardy notice if the order had a same- or next-day interval. Do you recall that testimony?

A Yes, I recall that. That might be a reason why there might not be time to get a jeopardy notice out.

Q You're not saying that's the reason Qwest missed this criterion with respect to putting forth timely jeopardy notices, are you?

A No.

Q In fact, the intervals even here in Colorado where they're shorter than they are in other states for both UNE-P and resale are not same day or next day; isn't that true?

A I would have to check with the intervals are here in Colorado. I don't recall.

CERTIFICATION

STATE OF COLORADO)

CITY AND COUNTY OF DENVER)

We, Harriet Weisenthal, James Midyett and Kristy Turner, do hereby certify that we were present and reported in stenotype the proceedings in the foregoing matter; that we thereafter reduced our stenotype notes to typewritten form, with the aid of a computer, composing the foregoing transcript; further, that the foregoing official transcript is a full and accurate record of the proceedings in this matter held at Denver, Colorado on June 10, 2002.

FILED at Denver, Colorado _____.

_____

Harriet Weisenthal

_____

Kristy Turner

_____

James Midyett

Exhibit LN-OSS-54

Q I'll represent to you that in most states it's three business days and in Colorado it's two business days. You wouldn't consider two business days to be same day or next day interval, would you?

A No, I would not

A (by Mr. Dellatorre) It is our understanding that as-is orders do have a same-day order.

Q In Colorado?

A That is my understanding.

Q One of the reasons we talked about last week that you may get a jeopardy notice is when facilities to fill that order are unavailable; isn't that true?

A (by Mr. Weeks) That could be a cause of jeopardy, yes.

Q Even if you had an interval -- I don't know of any sitting here, but if you had an interval that was same day or next day, if Qwest determined immediately that there were facilities unavailable, they would presumably have time to send a jeopardy indicating that, correct?

A Either a jeopardy or telephone call.

Q We talked about that last week as well. There are no methods and procedures documents

that you're aware of within Qwest that allow Qwest to phone a CLEC as opposed to sending a jeopardy notice, correct?

A Let me confer with my colleagues here. (Discussion off the record.) We're not aware of any.

Q Mr. Dellatorre, I heard you make a comment that the fact of the matter is, I think is what you said, where there are longer intervals, Qwest did better with respect to jeopardy notices; was that your testimony

A (by Mr. Dellatorre) No. We received a larger number of jeopardies for loop products. Not that their performance was better. I was not commenting at all on their performance.

Q Would you turn to page 93 of your final report. In fact, for the product unbundled loops where the interval is five business days, with the exception of the central region where there were only two orders and Qwest timely sent jeopardy notices, Qwest's performance, even though this was a satisfied criterion, was at best 14 percent in the eastern region for CLECs and 8 percent in the western region, correct?

A (by Mr. Dellatorre) That is correct.

Q So even where Qwest passed this

criterion for unbundled loops where the standard interval is longer, Qwest was not able to more than 14 percent of the time in those two regions provide timely jeopardy notices, correct?

A That is correct. The clarification on the reason that this is a satisfied is that these are parity measures, and in fact those wholesale numbers are in parity with the equivalent retail performance.

Q In fact, even for Qwest's retail customers, in the two regions that we're discussing, they never achieved more than a 10 percent timely jeopardy notice score, correct?

A That is the numbers we've reported.

Q With respect to criterion 14-1-34 and 14-1-36, these findings had to do with Qwest failing the parity standard for installation intervals for business POTS services and resale services; is that correct

A (by Mr. Weeks) That's correct.

Q Would you agree with me that if Qwest fails the criterion of parity with retail service for these installation intervals, that that is the same as providing discriminatory treatment with respect to installation intervals?

A I'm not an attorney so I don't know

what the legal definition of discriminatory service is. I would say that there's a difference in service. Whether it's discriminatory or not I will leave to the folks who know what the precise definition of that is.

Q You wouldn't take a position on that one way or the other?

A No. The purpose of our activity in this test were to find and report the facts and leave the decision-making about what's acceptable and unacceptable and discriminatory and nondiscriminatory to the regulatory community.

Q Would it also be your testimony that where Qwest passed a parity standard that you would not conclude as a lay person that that meant they were providing nondiscriminatory treatment? Would that also be true?

A Yes. I think it would be my testimony that what's discriminatory and what's not is probably a legal or a regulatory question that needs to be answered in that framework, as opposed to me.

Q You talked about diagnostic measures in your opening comments this morning. If you would turn to page 13 of your final report, please. In the last paragraph there you discuss diagnostic measures. If I can summarize, you're commenting that the fact

that we had diagnostic measures in this test that weren't assigned a satisfied or a not satisfied result is unique to this test; is that correct?

A I won't say that it's exactly unique. There may have been one or more diagnostic measures in other tests, but it's certainly not at the level -- there weren't as many different things left diagnostic as we've seen in any of the other tests.

Q Where you use the language one of the unique aspects, you're saying it's not completely unique but it's somewhat unique?

A The uniqueness is the pervasiveness of it, not the existence of it.

Q If I also read into what you're saying here, you are encouraging the regulators to look at these diagnostic measures as a measure of Qwest's performance, correct?

A That's correct.

Q Is it your professional opinion that those measures are just as important as the other measures in this test?

A Yes. I think as I -- I failed to say in my opening remarks, but it's clearly the case that every aspect, every evaluation criteria are important for one reason or another. Some are important

together as groups as opposed to isolated line items.

Q You have not prioritized or categorized as more important or less important any of the criteria in the test; isn't that true?

A That is correct.

Q Would I be correct in saying that you wouldn't feel comfortable doing that?

A I would not at all feel comfortable doing that simply because the question of importance is a question of context as opposed to absolute value.

We were conducting this test for a 13-state region. There are a variety of issues either satisfied or not satisfied where within the context of that particular regulatory community an issue might be very important or not important at all to fostering competition in that particular state or meeting the need of the various potential competitors in that state. It would be presumptuous of us to understand all of that regulatory context and try to say what's important and what's not.

Q Can you explain what KPMG did in this test with respect to the diagnostic criteria?

A Yes. Our responsibilities there were to understand the definition of the PID, performance indicator definitions, and to, as closely as possible,

collect the information and report the information accurately according to the definition of the PID and present that information in the report just like we did for all the other PIDs but just stopped short of then comparing those results to some standard or some benchmark.

Q You also then would not have reached a conclusion of any kind with respect to those measures; is that true?

A That is true. There may have been areas or aspects of the tests that we were testing where the evaluation criteria was such that if the company's performance was an issue as we observed it during the execution of the test, we might have raised observations or exceptions and if we did, those would be listed in the comments for those diagnostics. But when it came to the end of the test and we were trying to get the final score, so to speak, we would not have raised an observation or exception based on the final score or made a comment about the final score or given it a final result of satisfied or not satisfied.

Q Comparatively, those same kinds of measures that were diagnostic in this test but that were something other than diagnostic in other tests,

you would reach conclusions and assign a satisfied or a not satisfied or some equivalent to that; is that correct?

A That's correct, that's what we would have done, yes.

Q I thought, Mr. Weeks, what I heard you say this morning, and I thought I wrote it down exactly but correct me if I'm wrong, that even if KPMG had found problems with the diagnostics, they would not have been called out in this test?

A I just tried to clarify what I just said in my previous comments, that if an area was under test that happened to be governed or controlled by -- if we find, let's say, I'm going to make up something, that a particular transaction type didn't function as it was supposed to function, that either by HPC or by KPMG Consulting would be brought to Qwest's attention during the conduct or execution of the test as an ongoing part because we haven't run all the transactions at that point. We don't necessarily know what their ultimate end performance might be. To oversimplify, we might have planned to run ten transactions. We run the first one and it doesn't work; that would have been brought to Qwest's attention. But if they made corrections and we ran

subsequent transactions and all of those worked, then the fact that all subsequent transactions worked, which would have given them 100 percent compliance, we would not have called out that that was a satisfied nor would we have called out if it had been less than 100 percent. Let's look at timeliness; let's say that their response time was 27 seconds for a particular transaction type covered by a diagnostic PID. Maybe that transaction didn't work correctly to begin with. The fact when we add them up at the end there's 27 seconds, we wouldn't have commented on the 27 seconds as good or bad.

Q For those indicators that are diagnostic, would problems that you found have been brought to the attention of anyone other than Qwest?

A By Qwest I meant through the observation exception process which is the process that we did. We never communicated directly with Qwest any problem that wasn't brought up to the observation exception process.

Q Maybe I'm missing what you're saying here. You would have issued observations and exceptions if you had found problems relating to PIDs that were purely diagnostic?

A Let me give you an example. Let's say

there's a flow-through PID, which there is. Let me find one so we can talk about a specific example. On page 13 of Exhibit 2, criteria 13-1-2, order transaction submitted via IMA EDI flow-through to the statement of position, 51.86 percent.

What I'm suggesting to you in that case is, we used Qwest's ordering business rules documentation, they told us what orders should and should not flow through. We designed our scenarios and our test cases and our test instances. Using that understanding, we submitted orders. If a particular order type did not flow through that had been designated as flow-through in the documentation, then either HPC or KPMG consulting would have raised an exception or an observation that says, this particular order type does not flow through your documentation said it would be flowed through. So that would have been raised as an issue during the course of the test and an observation or exception.

However, when we get to the end of the test and we're trying to measure what percentage of the transaction submitted through the EDI interface actually did flow through, we had no obligation to say that 51.86 percent is good or bad.

A (by Mr. Dellatorre) There's an

important distinction between functionality and say, timeliness, where the PIDs are often timeliness based, where there is nothing to compare our measurement against and therefore there is no way to raise an observation or an exception because there is no set benchmark or no set parity measure for which to compare the number that we received.

The example that Mike illustrates with is a functionality examination that ultimately lends itself to timeliness calculations, but initially it's a functionality assessment. This was supposed to flow through; if it did not, we would raise that as an observation or an exception. So the difference between being functionality evaluation wasn't timeliness where because there's no benchmark there's no way to determine good or poor performance.

Q I appreciate that, Mr. Dellatorre, because my next question was going to be, in those cases where there was no expectation set through business rules or otherwise, then you would not have identified a problem per se.

A (by Mr. Weeks) Let me -- if there wasn't the business rules, this would have been the PIDs. The discussion of satisfied, not satisfied comes down to an examination of evaluation criteria

governed by PIDs versus those not governed by PIDs. The only opportunity one would have for a diagnostic result listed in those columns on pages 2, 3, and 4 would be evaluation criteria that were governed by a PID. If there was an evaluation criteria to which there were no PIDs that applied, then we developed our own standard for how to evaluate that. The types of standards we had for documentation were different than what we had for the electronic interfaces and so on.

Q If there was no expectation set by a PID, for example on the functionality issues as opposed to the timeliness issues, would you have developed an internal standard for the diagnostic measures as well?

A There are no diagnostic measures for non-PID evaluation criteria.

Q Let me ask it this way. If you had seen a problem in evaluating the diagnostic measures that didn't immediately raise a flag because it wasn't PID-compliant but it might be a problem that could be of competitive significance, would you have commented on that in any way in the final report?

A No. As I said or tried to indicate, if there were basic problems with the functionality of Qwest's wholesale interfaces, their documentation

didn't work, their process wasn't well formed, their systems didn't work adequately, those types of issues would have been raised through observations and exceptions during the course of the test. For those areas governed by diagnostic PIDs, what I'm saying to you is that the level of service delivered to the pseudo-CLEC when looked across time in the aggregate, which is what PIDs are about, we would not have raised an issue.

For example, we didn't establish a standard for 13-1-2 that talks about what an acceptable level of flow-through is for EDI. We simply reported what we saw. So is 51.86 good, bad or indifferent? You're not going to get a comment in this report about that number.

Q If I was to ask you for those diagnostic criteria that did not have a PID associated with them --

A There aren't, in that case.

A (By Mr. Dellatorre) Diagnostic is also a -- by definition.

A (By Mr. Weeks) By definition.

Q Those cases where you might have found problems, but not commented on them, would you be able to tell me, sitting here today, what those problems or potential problems were that you encountered?

A (By Mr. Weeks) Let me be precise. 1311, I will try -- I will continue to use it as an example. If we found problems in Qwest's EDI flow-through, for example, their definitions were wrong, their systems were broken, those kinds of problems were, in fact, brought up during the course of the test. Not might have been, were, in fact, brought up. What I am suggesting to is you, when we get to the end of it, we're not saying 51.86 is or isn't is a problem in and of itself.

And an example might be -- another example might be, you know, is going 60 miles per hour between here and California a good thing or a bad thing. We're not saying whether that's a good thing or

a bad thing. If we trouble along the way, we had flat tires and blown fan belts, and so on, we would have talked about those things, but we would never have said an average speed of 60 miles per hour between here and California is good or bad.

A (By Mr. Dellatorre) Without a standard or benchmark with which to compare a result to, there's no way to define it as a problem.

Q That's sort of exactly what I am getting at. That's the way you defined the problem, is that it's not meeting a standard or a benchmark.

A (By Mr. Weeks) We're throwing words around loosely here. What I consider a problem, during the course of the test, there's different kinds of problems. A problem could be that an interface doesn't work the way it was specified. It could be that I can't use a document for its intended purpose. It could be that a process doesn't produce the desired result. Those are all examples, of which we had 500 different kinds of problems raised during the course of the test.

There is a very small group of areas where the evaluation criteria was controlled by a PID, which was defined by a collaborative to be diagnostic, and in those cases, by agreement, the delivered level

of service by Qwest was agreed not to be evaluated in order to determine whether that level of service was a problem or not a problem. In other words, is 51.86 percent flow-through good or bad. It was explicitly agreed that question wouldn't be asked or answered in the scope of this test.

Q So, the final report does not reach any conclusions with respect to those kinds of issues or problems, whatever you want to call it, that might have been identified by KPMG?

A That's correct.

Q We talked last week about some of the manual error problems that KPMG found and that remained unresolved or closed unresolved or inconclusive in the final report. And we talked about Observation 3086, in which KPMG discussed the fact that Qwest often, 75 times, I believe, in response to a finding said that this was a human error problem or a training problem. Do you recall that?

A It was Exception 3086, just to correct the record, yes.

A (By Mr. Dellatorre) Observation.

A (By Mr. Weeks) It was an observation. I am sorry.

Q That observation was opened in response

so a transaction that HP performed; is that correct?

A The way that worked, we looked over HPC's shoulder and monitored the progress of the test, and the observation and exceptions that they wrote, and saw a pattern of behavior where many of the explanations for what the problem was, as raised by HPC, was attributed, by Qwest, to human error. And the fix, if you will, that Qwest offered up in those cases, was some retraining of some of their personnel. That's how the observation or exception was closed for HPC, and then they continued to do testing to see if it looked like a problem had been fixed.

And so we saw this pattern of training. It seemed to be that there must be a training issue here, because we're having to train people. And that's one we raised, Observation 3086, which was the training comment about manual work center.

Q You have anticipated where I am going, which isn't surprising, since we talked about this last week. But just so that was clear to everyone, Observation 3086 was closed, then, after a documentation review and interviews with personnel as opposed to after additional transaction testing, correct?

A That is correct. That we took it to the

point where we could test Qwest's assertions that it conducted certain training. It was a training-oriented observation. So, we could, you know, we could conclude conclusively the training hadn't taken place. What we couldn't demonstrate, through those kinds of white box sort of techniques, is when the people that had been trained, retrained, in fact had mastered their training. And whether or not the result of that training was that there were -- there was a, in fact, an improvement, some kind of state change in the manual order processing.

We raised this issue to the steering committee. The steering committee was quite interested in this topic. And when presented with an alternative of just doing white box testing and stopping there, or proceeding further to conducting some sort of a retest of manual ordering to see if it looked like the training had been effective, the steering committee took a decision not to pursue that manual order retest.

Q Again, you have anticipated where I am going. In your adequacy study, as we discussed last week, the statement was made that the TAG had agreed that no further transaction testing would occur. And when I asked you about it, you said it may have been a TAG decision or a steering committee decision. Based

on the testimony that you just gave, were you able to confirm, since last week, that that was a steering committee decision, not to perform additional transaction testing on the problems identified in Observation 3086?

A (By Mr. Dellatorre) We have done some additional research on this, and the best we have been able to re-create is that this was a steering committee discussion and decision. And it would be related to Change Request No. 29, which was then ultimately presented and discussed with the TAG, and agreed to. However, I just received that information this morning. So, I have not had the opportunity to validate that.

Q Is it your testimony that Change Request 29 was discussed and decided by the TAG or that the actual issue about whether to conduct further transaction testing or not on the problems identified in 3086 was discussed with and decided by the TAG?

A To the best of my recollection, the issue itself as to whether or not there should be transaction testing solely executed for the purpose of retesting manual order processing was not discussed and decided upon during a TAG call.

Q So that would have been a steering committee decision?

A Correct.

Q Will you be modifying your adequacy study to modify that finding that it was a TAG decision?

A (By Mr. Weeks) We certainly will attempt to clarify the record on this. We'll go back and look at CR 29 and exactly what the subject was and what was discussed there, and, if necessary, we'll put out a corrected version of the adequacy document that refers to the proper authority for the decision.

COMMISSIONER PAGE: He just said it was a steering committee decision, and you just said it was a TAG decision, back to him, so which?

THE WITNESS: (By Mr. Dellatorre) Our original document, what has been referred to as the, "adequacy study," that KPMG Consulting produced a document that discussed performance measures or performance indicators related to manual order processing. In that document, we cite a discussion on a TAG call, which is what I believe Ms. Tribby is referring to; that should, in fact, be revised to reflect that discussion occurred with the steering committee rather than on the TAG call.

MS. TRIBBY: If It was unclear, Commissioner Page, I think we're in agreement that it was a steering committee decision, not a TAG decision.

COMMISSIONER PAGE: When you threw the question back, you said it was a TAG.

MS. TRIBBY: That was my mistake, then, if that's what I said.

THE WITNESS: (By Mr. Weeks) I understood her question to me to be, are you going to correct your statement that says it was the TAG, and --

COMMISSIONER PAGE: Okay.

THE WITNESS: And the answer is affirmative.

COMMISSIONER PAGE: So I was confused too.

MS. TRIBBY: Thank you.

THE WITNESS: But we will also look at this CR 29, to see how that bears on this discussion, and we'll try to make the adequacy study properly reflect the facts of the record.

BY MS. TRIBBY:

Q Now, CR 29 only had to do with the adequacy study, didn't it? Wasn't that specific to the findings in the adequacy study?

A We have to go look at it. You may have it in front of you. You may have the advantage. We haven't looked at it.

Q And I believe, Mr. Weeks, your testimony

last week was that, typically, your professional opinion would be if a problem is identified through transaction testing, the best way to confirm that that problem doesn't continue to exist is through additional transaction testing, correct?

A If the problem we identified has to do with transactions or the behavior of a system, either an automated system or a manual system, yes, the most effective way to understand whether changes to that system have been effective is by retesting, using the techniques that you used to uncover the problem to begin with.

Q Observation 3110, which dealt with, again, manual processing errors. As I looked at what KPMG had done, it appeared to me that, in the retest, KPMG had reviewed 76 manually processed orders; is that correct?

A (By Mr. Dellatorre) Yes, it is.

Q And I heard you testify that, last week, in response to a question by Ms. Doberneck, that any sample size of 12 and under is considered a small sample size, but certainly that you could reach conclusions with anything greater than 12. Do you recall that testimony?

A (By Mr. Weeks) I believe the testimony

was a question about what did we consider to be a small sample size, and we said that was hard to define, but certainly less than 12, we would consider to be a small sample size. I remember that.

Q Okay. I am curious as to why, in Observation 3110, after reviewing and testing 76 additional orders, KPMG Consulting's conclusion was that there was insufficient evidence to reach a finding of either satisfied or not satisfied. Can you answer that?

A (By Mr. Dellatorre) The reason for that is that the scope of the orders that were examined, the body of orders, the population of orders that were examined were not designed to evaluate the manual order process. We used that body of orders that were available to us, retrospectively, because the orders had been submitted for a different reason. Originally -- I believe it was Exception 3086, originally; that the orders were submitted for the OP-4C retest. And, therefore, were only primarily intended to be flow-through orders that had dropped out for one reason or another. The test was not intentionally designed to test the manual order process.

And, in fact, our recommendation for

closing this observation was to construct and retest that transaction, based -- retest that, specifically designed to evaluate the manual order process.

Q Well, I am curious about that, because my understanding -- do you need a moment?

FROM THE AUDIENCE: Yes, please.

CHAIRMAN GIFFORD: How about if we take five minutes here.

(Recess.)

CHAIRMAN GIFFORD: Well, let's go back on the record and continue. You have been conferring, Mr. Dellatorre and Mr. Weeks.

THE WITNESS: (By Mr. Dellatorre) I would just like to run through the numbers associated with the manual order process processing and various retesting that we did. I will try to be brief, but provide some history.

In reference to Exception 3120, we sent several dozens of transactions, approaching 100, for the purpose of retesting Exception 3120. All of the orders sent in that retest were expected to be flow-through orders. In fact, eight of those fell to nonflow-through, of which one had a human error problem associated with it. For the remaining orders, for the bulk of the orders that were actually flow-through, one

that was also categorized as a flow-through order that ultimately incorrectly was intervened manually, that was also counted as an error. So, the population there is one and the number of errors is one.

Furthermore, we had 18 line-sharing orders for which there were two manual errors. At the conclusion of this retesting for Exception 3120, we actually revisited a population of orders that had been submitted earlier in testing, and determined that there were 49 manually processed orders, for which there were seven errors. So, in summary, the populations that have been discussed here, somewhat randomly, are the 49, 8, 1 and 18, for the total of 76 that Ms. Tribby referenced earlier.

The reason that we drew unable to determine as our conclusion of manual order processing is because none of these populations or none of these various retests or sets of data that we examined were specifically designed, in breadth or depth, to assess Qwest's performance on manual order processing. Hence the unable to determine conclusion for criteria test cross-reference No. 18.8-2.

BY MS. TRIBBY:

Q Okay. We can use 49, if you want to use that number, which is the sole set of historical

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results that you looked at after the initial 27 indicated problems, correct?

A (By Mr. Dellatorre) That is correct.

Q And 49 typically would also give you a sample size large enough to draw a conclusion under most circumstances, correct?

A Under most circumstances, that's correct.

Q Now, what I understand you to be saying is that when you -- when the determination was made to go back and look at historical data, in order to see whether Qwest was doing better with respect to this criterion, because the orders weren't specifically designed to fall out, I guess that you're assigning less weight to that. Is that your testimony?

A Well, the scope of the order and transaction types, the product types, the delivery methods, the features and functions on those orders, the complexity of the orders, whether or not they are designed nonflow-through, whether or not errors are intentionally put on the order, the depth and breadth of the types of transactions submitted were not robust enough, or -- as they would have been, had we designed a retest specifically to examine the manual order processing.

Q Are you saying that if you had designed

it, you would have designed orders specifically intended to fall out?

A (By Mr. Weeks) Yeah. The -- I think the way, if we set about the business, if we had our request granted to conduct a retest in this area, then we would have gone and designed a manual order handling evaluation test that would have been some combination of orders that are designed to fall out, and then we would have created a number of orders that would be normally designed to flow-through, but we would have introduced problems into those orders, so, they did, in fact, fall out. We would have looked at different products types, different service types, we would have looked at flow-throughs. We manufactured the situation to fall out. We would have done planned manual orders. We would have done a wide variety of things that would have allowed us to draw definitive conclusions about how effectively Qwest logged and recorded these dates.

Remember that that 3120 was a very narrowly identified test, and it was about the business of being able to record date accurately, such as the ap dates and so on. It was not even -- 3120 was not targeted at being a test of all different types of manual orders, all different types of handling. In fact, we didn't think a single order in the retest for

3120 would fall out. It wasn't our intention that they do that.

So, when we tripped across this issue of reps writing the wrong date down on the report in our retest of 3120, we suggested there might be a problem there. We suggested we ought to do some retesting there. Qwest was not interested in doing that retest. Just as an aside, we went back and analyzed some of the other test data that we had, and it just confirmed our suspicions that there might be a problem in this area. But, again, Qwest did not choose to do retesting for manually handled orders, because there's a lot of orders. One can make -- there's lots of errors one can make in manually handled orders besides just the date, with doing all this retesting around the date issue.

Q Suffice it to say, if Qwest had agreed to the retest, you would have redesigned the retest differently than the way it played out?

A The retest we designed accomplished the purpose. It just uncovered potentially another problem for which we have not had a chance to design an original test in the original testing.

Q Are you trying to, through this test, trying to determine how Qwest treats orders once they fall out from manual processing and how they do --

A We weren't -- that wasn't our test objective for this test, the retest.

Q What was your test objective for the retest, precisely.

A Precisely, it was to see if the automated system changes that Qwest had said it had made for recording dates had been implemented properly.

Q It was a test of the automated processes as opposed to the manual processes?

A Absolutely. We expected 100 percent of those orders to flow-through.

A (By Mr. Dellatorre) In fact, the underlying issue -- it's almost irrelevant to the root cause whether or not the underlying process is either automated or manual. But the problem that visited itself on us, that we were interested in determining, what was happening was when we would -- when we were comparing the KPMG Consulting view of line items of particular transactions to the Qwest view of individual line items for individual transactions. And it was there that we identified data discrepancy, specifically and date and times, as Mike had mentioned earlier, and the date and time of day, and weekend processing. Specifically, it turns out that the majority of the problems identified on the underlying root cause were

systems related. And then, therefore, our retest was an attempt to validate that those systems and software had been correctly updated.

And, in fact, the retest for Exception 3120 was successful at determining that systems and software were, in fact, revised accordingly, but then, as Mr. Weeks said earlier, we did run into this situation, and it was -- we tripped over it because there were eight orders that were expected to flow-through that did not. That then alerts us to the manual order processing condition.

Q Let's make sure the record is clear here. 3120 that you are talking about, that Mr. Weeks said is not -- was not -- you weren't retesting manual processes. Actually 3120 had to do with automated processes, but out of 3120 came 3110, which had to do with when an order fell out, there was human error in the way that order was processed, correct?

A (By Mr. Weeks) One of the eight orders.

A (By Mr. Dellatorre) Which was never retested, so hence we didn't design a retest for Observation 3110.

Q So the 76 or the 49 orders that were retested were retested as part of 3120 instead of 3110?

A They weren't retested at all. In fact,

that was a set of data that we already had on hand, that we used to confirm the final position that we already had in place, but was actually not a retest in the strictest definition of the word, because we already had that data. It was simply a look back at historical information to confirm or refute the data that we had in hand.

Q And those findings in your final report relate to 3110 or 3120?

A Which findings?

Q The findings having to do with those 49 or those 76 orders?

A (By Mr. Weeks) We're going to look in the report here for a moment, if we can, just so we're precise.

I don't see the reference to 76. Could you give us a test cross-reference?

A (By Mr. Dellatorre) We don't cite the total number that we used. We simply cite Exception 3120 and Observation 3110. And, specifically, I am referring to test cross reference 12.11-4, on page 98 of the final report.

Q I think, in the observation itself, actually.

A (By Mr. Weeks) Does anyone have a copy

of the Observation 3110?

A (By Mr. Dellatorre) I am quite certain of that, the 49 orders that we reviewed were not part of the -- the original observation. It was certainly not part of that. The observation was originally crafted, based on the eight orders that came from the retest of Exception 3120.

Q Maybe we can just sort of cut to the chase here. As I read your report, and particularly criteria 41 -- I am sorry. 14-1-44. I understood, at least, the additional 49 orders that were tested had to do with not the automated processes or at least not just the automated processes, but also the manual processes that you were retesting.

A (By Mr. Dellatorre) That is correct. They are not retested. We never designed a retest for Observation 3110; which is why it remains closed, closed unresolved.

Q And in fact, even though you are saying now that the test that you did was not designed to have orders fall out, so may not have been as robust, I think was your word, as a test that you would have have redesigned -- a retest that you would have designed, once Qwest said they would not do additional transaction testing, the idea was to look at historical

test orders, which led to the review of the 49 orders, was KPMG's recommendation as to how to get to a conclusion with respect to this problem; isn't that true?

A (By Mr. Weeks) No, it's not true. I would characterize our offer to look at the orders that had been previously submitted and analyzed was to seek confirmation or refutation of the fact that there may be a problem in this area. In effect, it was a fishing trip to see if it looked like other manual orders that we had -- other situations that we had been in like this, in other parts of the test, whether they showed the same or different results from this. It wasn't an attempt to get to a satisfied. It wasn't an attempt to get to nonsatisfied. It was looking to see whether the other orders that had fallen out in a similar manner during the test had received a like manner of errors, human errors.

Q And I understand that. I don't think that was my question. My question, was the suggestion to go back and review these 49 historical orders was KPMG's suggestion, correct?

A I agree with that part of what you said, yes.

A (By Mr. Dellatorre) It was never

expected to satisfy, otherwise this observation could have been closed. In fact, it was just an attempt to provide us with more information, which, in fact, it did. However these orders were orders taken originally from the retest of 3086, which, by its design, not unlike the retest for Exception 3120, was limited in scope to certain product types and certain intervals and not really focussed on -- not flow-through or manually processed orders.

Q So, is it your testimony that you knew, going into the review of the 49 historical test orders, that the conclusion would be a not satisfied?

A (By Mr. Weeks) No, that it would be undetermined, because we weren't able to conduct a proper and thorough test of this issue.

Q So, the additional review of the 49, after the 27 that you had looked at initially, was not intended to produce a findings of satisfied or not satisfied?

A That's correct.

Q And the finding of not satisfied, then, in KPMG's opinion, has to do with not being able to do an adequate retest that you would have designed?

A (By Mr. Dellatorre) That's correct.

A (By Mr. Weeks) That's correct.

Q It doesn't have to do with sample size of historical test orders that you reviewed?

A (By Mr. Weeks) No, it does not.

MR. CRAIN: Can I ask a clarifying question? You referred to a finding of not satisfied. I am not aware of one in this context. I am only aware of findings of unable to determine.

MR. WEEKS: I agree with that.

MS. TRIBBY: I think that's right.

MR. CRAIN: Okay.

BY MS. TRIBBY:

Q As we discussed last week, KPMG did not evaluate, as part of this test, did it, the auditability of wholesale bills?

A (By Mr. Weeks) No. We validated the accuracy of wholesale bills delivered to the pseudoCLEC. We did not design a test that would have developed a conclusion that says bills are auditable or not by a CLEC. I think it speaks for itself, that, in fact, we did audit the bills, so one could infer that they are auditable. We didn't have test criteria targeted at measuring auditability.

Q Nor did you reach your conclusion as part of your final report?

A There's no evaluation criteria for -- no

conclusions about audiability in the report.

Q As we discussed last week -- I think we can maybe make some conclusive statements as opposed to going through these. Where Qwest had significant problems with some of the transactions testing, or functionality testing, like billing, and like -- some of the human error problems, a finding that Qwest was not satisfying functionality or transaction criteria did not necessarily mean that that would lead KPMG to a conclusion that Qwest's processes, for purposes of those tests, were also inadequate, correct?

A If I could say back what I think you are saying to me. We, in certain parts of this test, the nature of the testing that we were doing could be characterized as transaction type of testing. Other parts of the test, one could characterize the type of testing we were doing as process testing. There are cases in which we use certain aspects of transaction testing to analyze and support certain things that we thought we had observed during process testing.

And, but, going the other way, which is the fact that we were having problems in certain cases with transaction testing, many of the times the processes we were testing there were automated processes. And, so, I guess in a way, if you find a

problem with a system, to the extent that it incorporates a process, yeah, you're testing the process as well as the functionality at the same time. There clearly would be process tests for which there's no corresponding transaction test and/or transaction test for which there's no corresponding process test to cross-correlate to one another.

Q For example, even though Qwest failed its billing or Daily Usage Feed test five times, and some of those failures might have been attributed to processes or systems issues, that would not cause you to go back and modify your conclusion about the processes that Qwest was applying to the billing procedures, correct?

A Well, had we written the report at the time we were having bill validation problems, or DUF problems, had we written the report at that time, we would have said certain aspects of their process must not be working, and they would have gotten not satisfied on those, just like they would have gotten no satisfieds on the bill accuracy part of it. But the fact that, as I indicated earlier, the fact that you have accurate bills, you can infer certain parts of the process are working properly. But other parts you can't infer are working properly, because there's

multiple sources of accuracy.

A (By Mr. Dellatorre) We did, in fact, revisit elements of the process test based on transaction test results. And there were changes to the conclusions drawn in the process tests, based on transaction and process evaluation results combined.

Q So, the satisfied finding for the process pieces may have more to do with when that portion of the report was written, or when those conclusions were reached, as opposed to saying we never observed processes problems with billing?

A (By Mr. Dellatorre) That's correct.

A (By Mr. Weeks) That's absolutely correct.

Q We talked a little bit last week about the regional differences assessment that KPMG conducted at the beginning of the test. Do you recall that?

A I do.

Q And I think your findings at that point in time were that Qwest's OSS systems were enough the same across the region, or at least within their subregions, that testing could be grouped together for the regions and subregions; is that accurate?

A Right. The findings were that there were three fundamental sets of service order processers and

billing systems and related other systems so that the eastern, western, central regional, I call them, "regional," I think you refer to them as "subregional," approach to testing that was the going in position in the TRD was supportable by the analysis that we did during the regional differences study. And was reasonably well-supported by the findings of the OSS test, with the exceptions that are noted in the report.

Q We have talked about some of the criterion today where the ultimate determination was that Qwest passed in one subregion and failed in another, or had differing results in various subregions; is that fair?

A Yes. It's fair to say that Qwest's systems, when you are measuring aggregate performance across a time period, did not perform the same way in all three of those regions.

Q Having found those differences and seeing those differences reflected in your result, would that cause you to change any of your initial findings or initial presumptions about the similarity or the sameness between Qwest's regions and subregions?

A No. Because the basis for saying that they were the same was the fundamental operating characteristics, if you will, the functionality, the

definition of the interface, what, in other words, what a CLEC has to do. Does a CLEC have to do something different in Montana than they do in Washington state? And so, there's the interface differences, and then there's the processing differences, and there were a couple of times where it would appear to us, based on the results, that the business rules, as implemented inside of those systems, were slightly different, but from a testing perspective, it was still valid to test those three instances and to infer that all of the behavior for, say, the western region billing system, would be the same for all of the states covered by the western billing test.

We did not find, that I can recall, anywhere in the test, that within a region, there was a difference between two states. So, the fact that the average response time or some other characteristic of the system, as it was operated, produced a different result, doesn't lead me to believe that it was not appropriate to test those systems on a region-by-region basis.

Q So, what you found, that operating characteristics, in other words, what a CLEC has to do is relatively the same across the three subregions?

A Correct.

Q The differences that you found would have been attributable to either processing differences, you know, in other words, as you said, business rules were implemented differently or differences in levels of performance? Is that fair?

A Yes. It could be a variety of factors, including the mix of the transactions that actually went through the interface. If there were human beings involved, obviously you could get differences in human behavior from area to area. There's a variety of factors that could cause the end result, as measured, across a large period of time, to be different. And on average, from central to western, wouldn't necessarily -- I wouldn't necessarily expect them to be the same.

Q Now, your test would have shown or should have shown differences in processing or in implementation of business rules between subregions, but it wouldn't have gone to the level of showing differences in states within those subregions?

A That's correct.

Q Finally, we talked last week about KPMG's test that they -- or test report, I guess, that they put out, having to do with the CLECs that were involved in secret deals or undisclosed deals with Qwest. Do you recall that?

A Yes. It's a -- it's a report, if you want to call it a report, it is a document or collection of two documents that describes those evaluation criteria in which one or more of the three CLECs that we were doing the investigation, to the extent to which they participate in those criteria, and the results in that criteria are based, in some part, are due to a large extent on participation and information from those -- one or more of those CLECs.

Q Do you recall the name of that report? I don't have it in front of me.

A (By Mr. Dellatorre) CLEC Participation --

Q Review?

A Review.

A (By Mr. Weeks) I don't know how we characterize -- let me see if I can get the actual document name.

MS. TRIBBY: It's attached to the joint CLEC comments.

CHAIRMAN GIFFORD: Right.

BY MS. TRIBBY:

Q And you had categories in that report, or whatever you want to call it, of partial reliance, substantial reliance and other.

A (By Mr. Weeks) Correct.

Q And we looked at some questions and answers that WorldCom had asked, KPMG had answered with respect to that study, and determined that, actually, in the category of substantial reliance, there are at least some instances when -- where the reliance on the CLECs involved in those secret deals was 100 percent, correct?

A The data portion of that is 100 percent.

Q And, in fact, as we discussed last week, for some of those criterion, those were only data-related criterion. In other words, there wasn't any other criteria, correct?

A There weren't any other significant activities that we would have done that helped us develop the result, other than analyzing the data given to us; that's correct.

Q So, your findings with respect to those may have been based entirely on information gathered from those CLECs, correct?

A Correct.

Q And as we also determined last week, you are now supplementing or adding to that report, based on a number of additional CLECs that have been identified as having entered into these previously undisclosed agreements with Qwest, correct?

A That's correct.

Q And do you know -- do you have any better idea today when that will be completed?

A (By Mr. Dellatorre) When it will be completed? I do not have a better idea. We do -- I can reaffirm that it appears that there will be no additions to the substantial reliance category.

Q Are you currently in the process of doing that evaluation?

A (By Mr. Weeks) Evaluation is complete. It's under internal review. My expectation is that, depending on the schedule for hearings and things this week, it will probably be out this week.

Q So, there will be some addition to the partial reliance category, but none for the substantial reliance; is that your understanding?

A (By Mr. Dellatorre) That appears to be the way it's shaking out, yes.

Q And that is subject to change at this point or --

A Yes.

Q Was the purpose for doing that analysis the idea that you were concerned -- or someone was concerned that your findings might be questioned if they were solely relying upon the data provided by

CLECs that may have been provided preferential treatment by Qwest?

A (By Mr. Weeks) No. The motivation for that document was very simple. We anticipated one or more questions, in one or more hearings, about, have any of those CLECs participated in the test. And, if so, how have they participated in the test. So it was strictly not any concern we had on our part, because we have no evidence whatsoever anywhere that we didn't get other than straight-up information from the CLECs that participated with us. I don't know -- no information has been brought to our attention to the contrary. And, so, we just anticipated a question in regulatory proceedings, so we prepared an analysis anticipating that question.

Q And you actually haven't reviewed any of those agreements. You are not aware of what the content are of those deals?

A That is correct.

Q Am I correct that there was no capacity tests performed on Qwest's manual processes?

A I believe that's a correct statement. That was not in the scope of the MTP.

MS. TRIBBY: Thank you. That's all I have.

CHAIRMAN GIFFORD: Mr. Dixon or Ms. Doberneck?

MR.DIXON: I will go next, if that's all right.

MS. DOBERNECK: Certainly.

EXAMINATION

BY MR. DIXON:

Q Good afternoon, Mr. Weeks and Mr. Dellatorre.

A (By Mr. Weeks) Good afternoon.

A (By Mr. Dellatorre) Good afternoon.

Q I want to touch on a question that Qwest raised initially, and just have you follow-up on it a minute. Qwest discussed the fact that you were conducting a dual test. And asserted something to the effect that this was used to manage risk; is that ring a bell?

A (By Mr. Weeks) I don't remember that exact phrasing, but I will accept your representation.

Q And my question was, the concept of managed risk, I was trying to determine what risk was being managed by using a dual test, if you know.

A The risk of drawing a conclusion that Qwest's systems were operating at parity with retail when, in fact, they were not.

Q Would that be what's known as a, "Type 2 error," if you recall, or no?

A There are -- should I give the oversimplified -- yes.

Q That's good enough. We have enough data on it. I just thought I would be sure what type it was. Just a general question, have you reviewed pleadings that have been filed in this docket since May 22nd, 2001? And the reason I pick that date, that's when initial comments were filed, and then some supplemental comments.

A No, we have not reviewed any pleadings in connection with this docket.

Q And to the extent any assertions are made in those pleadings, that would purportedly fix the concerns you raised, you would not be able to render any opinions on those alleged fixes?

A I would not be able to comment on that at all.

Q Fine. That will knock out a long line of questioning, per test. Back on about March 4th, Mr. Weeks -- and I know Ms. Tribby alluded to it. I thought we would put it in real basic black and white. I believe you made the comment in the vendor test conference with words to the effect, "I will give my

normal speech that I always give. Not all evaluation criteria are weighted equally. Playing the numbers game of counting up criteria and all that stuff is a very dangerous thing to do, and I would encourage you not to do that." Do you recall making such a statement at the -- I believe it was the first vendor conference on March 4th, and I have taken it from the transcript?

A I have made similar comments many times, so I will accept your statement that I made it on that date.

Q All right. And that statement reflected your opinion, on today's date, regarding the various criteria that have been discussed in your final final report?

A Yes.

Q I would like to turn to preorder-to-order integration just briefly, but I did cover most of this with HP. But just so it's clear for the record, did KPMG evaluate Qwest's preorder-to-order integration?

A Not in a formal sense, no.

Q Do you have -- do you happen to know if LSOG Version 3 is still available through Qwest's systems?

A I don't remember the sunset date on Release 7, so, I do not know the answer to your

question.

Q Do you know if Qwest has implemented LSOG Version 5?

A It's my understanding that LSOG Version 5 sits behind IMA GUI 8, which was tested, and so I believe the answer is yes. It has been implemented.

Q Now, you referred to a sunset date, just generally, saying you weren't sure of the sunset date for Version 3. Can you just describe what you mean by a sunset date and what the impact of a sunset date may be?

A Traditionally, as a vendor moves from one release of software to another, oftentimes they will have multiple releases that they support concurrently in production. When one release starts to get a little old in the tooth, they will set a date beyond which they will not support that interface; to say, well, that's typical of a sunset date. That's published usually well in advance, and CLECs are made aware that that release will not be available past that day. And they have to migrate to a subsequent release of one form or another.

Q I asked if you knew a date when LSOG Version 3 might not be available. Do you have any sense of the sunset date for LSOG Version 3 to Qwest's

systems?

A I personally don't.

Q An estimate.

A I think --

A (By Mr. Dellatorre) We just conferred with HPC, and their understanding is that it's mid-May.

Q Of 2002?

A Yes. But that's certainly subject to check.

Q That's fine. And as I understand what you have said about the sunset date, assuming for the moment that a sunset date is set, for LSOG Version 5, then CLECs are no longer allowed to use LSOG Version 3 for processing transactions, would that be a fair summary?

A That would be my understanding, yes.

BY MR. DIXON:

Q. Do you know if there are any PIDs performance indicator definitions for preorder order integration to measure the effectiveness of that?

A. I'm not aware of any.

Q. Let's move to another subject matter, use of commercial data: Did KPMG use any of Qwest's commercial data to make up the various monthly reports to go back and cross check findings of fact that you made in the various test that go you completed over the last several years?

A. There are two fundamental areas in which we used Qwest-provided data. One would be on parity type of standards where we were required to compare Qwest retail for a period to what we observed for the Pseudo-CLEC. So in those cases we were using commercial data provided to us by Qwest.

The other case would be in the data comparison that we referred to earlier, where, for transactions executed by the Pseudo-CLEC, we obtained from Qwest similar information about those transactions. This is the normal data that is reported to the regulatory authorities, this is the underlying raw data.

We compared data to data as opposed to

results to results, such as we did when we did the retail wholesale parity comparison.

MR. DELLATORRE: And a third assessment that we did as one of our activities is the comparison of the P-CLECs performance versus the CLEC aggregate performance to see if those appeared to be within reasonable or expect bounds.

Q. Thank you.

Let's go to another subject, the discussion that we focused on a little bit earlier on human error that the other parties have talked about. First of all, you made reference to a Qwest manual order entry PID adequacy study or it's been called the adequacy study.

A. Yes.

Q. Can you tell us just what generated that study or what the purpose was for it?

A. Yes, I can give you a little of the history on that and its purpose. We were discussing the issue of whether or not there should be a -- in the resolution of 3086 -- Observation 3086, whether there should be some sort of test, transaction-based test of the Qwest manual order handling. A steering committee decided they did not want to direct that sort of transaction-based retesting but asked the question

whether KPMG Consulting believed that the proposed additional measures that were in Qwest's response to 3086, along with the other performance measures that were already in place; those taken together, would they likely produce the ability for regulators to monitor manual order handling issues and problems on a going-forward basis?

And we said, well, we would have to go think about that a little bit. And they asked under the circumstances then to go -- the steering committee being they -- asked us to go away and do what's become the adequacy study, the adequacy of the performance measures to monitor manual order handling issues.

And it is a separate freestanding document; it is not part of this report; it does not represent, as this report does, a finding of fact; it represents our company's professional opinion about the performance measures around the area of manual order handling.

Q. Do you know if that particular study has been filed with this Commission or made a part of this record?

A. I'm not aware either way.

MR. DIXON: Mr. Chairman, I have no clue whether that's been made a part of the record.

CHAIRMAN GIFFORD: I haven't seen it.

MR. DIXON: Okay.

BY MR. DIXON:

Q. Have you reviewed Qwest's response to the adequacy study?

A. No, I have not.

Have you?

MR. DELLATORRE: Well, I have not reviewed a written document. However I've heard verbal representations on various calls, TAG and otherwise, that I believe represented Qwest's position on the adequacy study and the underlying recommendations for performance indicators.

Q. And to the extent you can recite those, that response -- I have no problem with it being based on what you just indicated is your knowledge base -- can you give us your understanding of Qwest's response to your adequacy study?

MR. DELLATORRE: Generally I believe it was Qwest's position -- and I would certainly be more comfortable with Qwest representing their own position -- that the number of performance indicators that would be required to adequately capture the performance measures suggested would be a very large number, given the opportunity for disaggregation by

CLEC and by ordering interface and by product type and et cetera; that the sheer number of actual measures and results would be a very large number. And I believe they suggested an alternative, however I am not aware of the underlying recommendation.

Q. Are you aware whether any PIDs are to be submitted by Qwest relevant to that adequacy study?

MR. DELLATORRE: There were performance measures suggested by Qwest in response to Observation 3086. I don't know if those same measures or other measures were suggested by Qwest in response to the adequacy study.

Q. All right, I would like to move on to OSS interface development.

Did KPMG conduct any transaction testing of Qwest's standalone test environment?

A. No.

Q. Did KPMG observe the Pseudo-CLEC perform any transaction testing of Qwest's standalone test environment?

A. The answer is no.

Q. Did KPMG observe any CLEC performed transaction testing of Qwest's SATE?

A. Yes.

Q. And can you tell us what was observed?

A. We fundamentally watched them go through the --

(Pause.)

A. We conducted interviews with them and asked them for artifacts of the transaction testing process. We didn't stand beside them as they conducted that actual testing.

Q. Did you or were you able to ascertain what versions of the standalone test environment were being used by the CLECs that you are -- that you made reference to?

MR. DELLATORRE: We observed progression testing for Version 7.0 and regression testing for Version 8.0.

Q. You have added a couple questions.

Could you -- probably for the benefit of me and the Commissioners, perhaps, explain what you mean by progression testing.

A. Qwest has defined progression testing and regression testing somewhat differently than sort of the standard industry definitions -- which is fine as long as those are well defined. I'm going to take two seconds and talk to my colleague and make sure I don't misspeak here.

(Pause.)

A. Progression testing is the full function testing that you would normally expect to see happen when a new release, for example, comes out and Qwest is changing its -- its formal definition of the interface and a CLEC wants to come in and ensure that all other things that were working are still working and the new things work as advertised.

Regression testing is a little more free formed sort of environment where a CLEC may be making changes unilaterally on its side and wishes to set up a test environment and test regime with Qwest where it can test specific things, kind of a sandbox kind of testing mechanism.

Q. In the latter case of regression testing and the example you gave, am I to assume that the purpose of the example would be a CLEC is making changes on its side of the system and wants to make sure it does not interfere with the operation of the standalone test environment as designed by Qwest?

A. No, I would characterize the purpose for regression testing as being -- let's assume I'm a CLEC and I'm migrating my own software, my own OSSs, from one release to another; or I've changed vendors on my side of the fence and I'm now using a different EDI translator than I did before and I just want to make

sure that I haven't broken anything on my side. So that would be an instance of a situation where I might take advantage of the regression testing as opposed to progression testing.

Q. Again some more simple questions: Did KPMG observe the use of the virtual interconnect center knowledge initiator also known as VICKI?

MR. DELLATORRE: No.

A. No.

Q. Did KPMG observe the Pseudo-CLEC using VICKI?

A. No.

MR. DELLATORRE: No.

Q. Did KPMG observe any CLECs using VICKI?

A. No.

Q. You have heard some references to -- oh, sorry.

A. Go ahead, I'm sorry, Mr. Dixon.

Q. There has been some references to interoperability testing at one point in these proceedings today. Can you just describe what interoperability testing is as it relates to OSS interface development?

A. At Qwest, the history of how CLECs would test with Qwest when they are either their entering the

market for the first time or when there is a new release and there is functionality that needs to be tested with the CLECs, is that there would be a process -- a stigmatic process that starts with just basic connectivity testing and then escalates up through testing the various types of functionality that are there; but those tests are conducted in the production environment with ginny pig test accounts. And so it is similar in nature to the kinds of activities that have been described for the standalone test environment and progression testing but it's not done in the standalone way in an isolated environment away from production; it's done actually in an interoffice facility or capability and a way of using the production environment to accomplish testing.

Q. Did KPMG make any observations of the Pseudo-CLEC using Qwest's interoperability testing to construct its EDI interface?

MR. DELLATORRE: Yes, we did.

A. Yes.

Q. Can you describe what you observed -- what that is, what KPMG observed?

MR. DELLATORRE: HPC actually went through the process of certifying with inter-op and raised their observations and exceptions.

And, in fact, KPMG Consulting raised an exception -- I believe it's 3029 -- and our findings that the combination of data inputs into those findings were a result of HPC's use of an interconnection to and through inter-op; and also our process examination of documentation methods and procedures and interviews with Qwest personnel.

Q. I want to turn for a moment to maintenance and repair issues -- just a couple of questions.

When testing Qwest's maintenance and repair functionality, were trouble reports submitted, for example, via CEMR, C-E-M-R, on an orders due date as that date was identified in a firm order confirmation? Did you do that type of --

A. Yes, we did.

Q. Or did you observe it?

A. Yes.

"Q And likewise for Qwest's M and R functionality, did you do a similar report on the day after or the day following the due date that was identified on the firm order confirmation.

MR. DELLATORRE: Yes.

A. I think the large number -- the

preponderance of M and R troubles were actually turned in in the evening of the day that was on the FOC date. There are some, I believe, that spilled over into the next day; but the vast majority of them were submitted on the same evening of the day of the completion.

Q. So if I understand your answer, your answer is yes to both questions?

A. Yes to both questions.

Q. And under that circumstance, did KPMG identify any differences between how Qwest receives and handles troubles that are submitted on their due date as opposed to those troubles that are submitted on the day following a due date as identified in a firm order confirmation?

A. In terms of the ability to turn in a trouble report, looking at it from a systems sort of black box test, we did not see any differences in turning in troubles after provisioning completion but on the same day as provisioning completion, versus after provisioning completion on a subsequent day to provisioning completion.

We are aware through our white box processing test that under certain circumstances it is possible to report a trouble on the circuit prior to provisioning completion. But we didn't test that

scenario per se with our black box testing.

Q. Just so it's maybe clear for the record, a black box test that you have alluded to a little bit on several occasions and I think you also generally described -- why don't you tell us what you mean by a black box test in layman's terms. What is it you are doing and what do you mean by that?

A. What we try to do in a lblack box test is assume no knowledge of what's happening behind the screen; that we take the publicly available documentation provided to all CLECs, we prepare whatever the input is -- or if it's an LSR or trouble report, whatever it is -- and submit that according to the business rules; and then look to see if the interface behaves in the way that it's supposed to, sends back whatever responses, positive or negative; does whatever it does on a timely basis and so on, without any knowledge of the how and the why of the internals of how Qwest does what it does; as opposed to white box testing, which as I've characterized is we sort of, take off the Pseudo-CLEC veil, put on the auditor tester veil and go inside the walls of Qwest and talk to them about their management process, procedures, controls, and the like.

Q. Let me see if I can make it very simple:

What I might think black box test is I turned on the radio and if I hear music, I don't look behind to find out why the music came on; I'm happy I got music when I turned on the radio.

A. Correct.

Q. Whereas the white box test, I turn on the radio; I hear music; and I want to figure out why, so I start going into the radio. I may look at the antenna; I may find out about radio waves and analog waves, et cetera. And I actually look at why the music is produced through the radio. Would that be a fair --

A. And whether it's a good radio.

Q. Yeah, great.

All right, hopefully that helps me at least.

Then I would like to turn -- I think it's lastly. Let me be sure -- yes, lastly. Ms. Tribby discussed the May 7 CLEC participation report which, just for the record I will represent was attached as Exhibit A to the joint CLECs May 22 comments. And I'm also going to make reference to the responses to that report which were attached as Exhibit B to the Joint CLECs supplemental comments filed on June 3d.

If anybody wishes to get them, although I don't intend to go into this in depth --

COMMISSIONER PAGE: Exhibit B?

MR. DIXON: Exhibit B to the June 3d supplemental comments.

COMMISSIONER PAGE: Only mine says June 6th.

MR. DIXON: June 6th, you are correct. I apologize. I'm having my days mixed up lately.

COMMISSIONER PAGE: Why?

(Discussion off the record.)

MR. DIXON: If everybody is ready, I'll go ahead with my question.

You indicated in response to Ms. Tribby that you prepared this report because you anticipated some questions just like these.

A. Yes.

Q. Were you asked to do the report by any of the third-party vendors or anybody?

A. No. This was a totally self-motivated activity anticipating questions.

Q. You indicated that you didn't get any information that was contrary to your findings and that no -- I implied that you meant no CLECs provided you any information that would indicate that the data was not reliable that you were using. Would that be a fair assumption?

A. We have not received any information from any source.

Q. Would CLECs have access to each other's data to be able to validate whether there was some concerns they might have about someone else's data?

A. Oh, I think the actual data itself, perhaps not. But I think the question here isn't whether Field 33 on Form No. 7 was right or wrong; I think there is a more general belief that perhaps people didn't provide us all of the information that they might have provided us had these agreements not been in place. So I think it's more impugning the intent and the behavior of the people as opposed to the data itself.

Q. And how did Cap -- KPMG -- that was a slip -- KPMG learn about what you refer to as the CLEC participation activities in the test as it related to what Ms. Tribby refers to as the secret deals?

A. The secret deals.

Q. Yes?

A. In the press.

Q. In the press? All right.

In the response that I represented was Exhibit B to our -- to the Joint CLECs' June 6 comments, there is a reference that KPMG might conduct

some data reconciliation in response to Question K. Last week you indicated you had done so much -- had not done such data reconciliation. I assume you did not do any over the weekend either.

A. That is a correct assumption.

Q. So that would be your correct assumption today?

MR. DELLATORRE: Actually a correction I did want to make on that: For data that we received from any CLEC, one of these particular CLECs or any other for that matter, which is why it didn't come up specifically last week -- that we were not able to validate the accuracy of that data or we identified issues with that data, we did go through a data reconciliation process, if you will -- that word is used too many times to mean too many things -- but a data reconciliation process of comparing that CLECs view of their own data with data presented to us by Qwest. So that we did do some data resolution between the commercial view provided by -- from the CLEC -- or by the CLEC and Qwest's view of that same data.

That question was not limited to these three CLECs per se, but rather it was done based on the conditions of the accuracy of the underlying data.

Q. And with that follow-up comment, do I

assume then what you are saying is that was an ongoing process as opposed to something that was triggered by the May 7 report and the activities that led to the May 7 report?

MR. DELLATORRE: That's correct.

A. It was part of our sort of normal data assimilation process.

MR. DELLATORRE: Correct.

A. Or an event triggered by this activity.

Q. Has KPMG reviewed any of the contracts or agreements between the three participating CLECs which were identified as Echelon Telecom, Inc., Covad Communications -- identified as, Inc., but I think it's actually -- Company, and McLeodUSA?

A. No, we have not.

Q. Did KPMG observe any results from the Pseudo-CLEC in the same performance measures that related to the three participating CLECs upon which you could make any comparisons?

A. No, because the nature of these evaluation criteria were such that the Pseudo-CLEC wasn't doing anything in those areas and that's why we were going outside the Pseudo-CLEC into the community at large to try to get our evidence and get our information because we couldn't get the information

from the Pseudo-CLEC.

Q. And then toward the end of your report you indicate that you would be happy to discuss this situation and you would provide further information about the potential impact of this disclosure on the test as required. Do you have any additional information you would like to provide at this time?

MR. DELLATORRE: We just provided it to you moments ago.

MR. DIXON: That's kind of what I expected, but I thought I would check.

Q. Now, Ms. Tribby also alluded to the fact you intend to do an updated or follow-up report.

A. That's correct.

Q. What's generated the need from KPMG's perspective to do an updated or follow-up report?

A. A specific request by AT&T.

Q. Okay. And can you give us some indication of what that request is?

A. That we take the extended list of CLECs who were found to have these kinds of things and expand our analysis to reflect any changes to our documents as a result of applying that longer list of CLECs.

Q. And do you know, either off the top of your head or by consulting with your group, how many

additional companies you will be referring to beyond the additional three?

A. Somewhere in the seven to ten range.

Q. And I asked you, additional; is that additional, so we're talking --

MR. DELLATORRE: That's additional --

Q. -- as few as ten and as many as 13, if you include the original three?

A. The list we were provided by AT&T I think had a total of roughly 10 or 12 on it. I don't recall what the exact number was. So there were three on the initial list. I think there is roughly 10 or 12 on the total list, so I think there's roughly seven to ten more, but subject to check.

Q. As part of your updated report -- and I believe in Washington you agreed that you would attempt to answer the very same WorldCom questions that were raised with respect to the first report issued on May 7th, are you willing to do that for Colorado?

A. We will do it one time on behalf of everyone.

Q. All right. Is that a document you intend to file with this Commission?

A. We had no intentions for that document other than to meet the request that we correct it. If

someone would like to have us submit that, we certainly can, or we can provide it to parties who are a party to this docket and they can submit it.

MR. DIXON: Mr. Chairman, I would request that that document become a late-filed exhibit since we have -- the issue is obviously in play to some degree for whatever, it's worth.

CHAIRMAN GIFFORD: Yeah.

MR. DIXON: And the earlier document is in the record as well as the WorldCom questions. I don't know if it's going to make it in time for your deliberations, but I would ask that it be included as part of the record as a late-filed exhibit.

If KPMG sends it to me, I will take the necessary steps to in fact include it in the record.

So you will have my commitment to get it in to you as soon as I get it from them within 24 -- one business day is my plan.

MR. DELLATORRE: And our intention is to submit it to the ROC TAG mailing list and ultimately have it posted on the website, as well.

CHAIRMAN GIFFORD: So we can get that tomorrow?

A. You can get it as soon as it's available.

MR. DELLATORRE: Which probably isn't

tomorrow, but we're making best efforts.

COMMISSIONER PAGE: I don't know if one day --

CHAIRMAN GIFFORD: Well, we'll, I guess, hold Hearing Exhibit 5 and you can submit it. We'll just count on you getting that in the record and we'll admit that.

MR. DIXON: What I will do, Mr. Chairman, is it print it out as I receive it, because I am on the ROC TAG list; and I'll print whatever I get and I will formally file it here at the Commission so it's part of the report -- an consult with your advisory staff to be sure it gets to everybody.

I also would ask that the -- Mr. Chairman, that the adequacy study that's been cross-referenced also be made a late-filed exhibit, since it has been discussed generally, even before I addressed that issue; and I think again it should be part of the record.

CHAIRMAN GIFFORD: The adequacy study is done, right?

MR. DIXON: The adequate study is done.

CHAIRMAN GIFFORD: Okay.

MR. DIXON: And Qwest has filed a response which it can --

CHAIRMAN GIFFORD: Right.

MR. DIXON: I would have no objection to them putting it in the record.

MR. CRAIN: Tom, isn't the adequacy study an exhibit to your comments?

MS. DOBERNECK: No.

MR. DIXON: I don't believe so. If it is, I would be happy; but I don't believe it is, based on what I looked at.

CHAIRMAN GIFFORD: Well --

MR. DIXON: I'll say this, Mr. Chairman, it's my belief it is not yet; and hopefully we won't have overkill. I'll just be sure one is provided again. I'll be happy to have Mr. Crain look at it -- and KPMG if they are still available -- to assure it's the right document --

CHAIRMAN GIFFORD: Okay.

MR. DIXON: -- and file it.

CHAIRMAN GIFFORD: Okay, we'll hold Hearing Exhibit No. 6 for that adequacy study. You should be able to have that here tomorrow morning, Mr. Dixon.

MR. DIXON: Absolutely. I will do my best.

COMMISSIONER PAGE: Then do you have

Exhibit 7 as Qwest's response to that?

CHAIRMAN GIFFORD: Mr. Crain, do you want your response to that adequacy study?

MR. CRAIN: Sure, we'll make that Exhibit 7.

CHAIRMAN GIFFORD: All right. We're we've got seven exhibits and less than half of them here.

MR. DIXON: That's all right, I got in trouble for not printing one out I got the morning of the hearing in Washington. I didn't have a printer with me unfortunately.

But on that happy high note of cooperation, I have no further questions of KPMG.

CHAIRMAN GIFFORD: Okay, Ms. Doberneck?

MS. TRIBBY: Your Honor, I found one document I was looking for previously; can I just ask a couple of follow-up questions on that?

CHAIRMAN GIFFORD: Certainly.

MS. TRIBBY: Thank you.

EXAMINATION

BY MS. TRIBBY:

Q. I have in front of me Observation 3110; and I realize you don't have it in front of you, but the 49 historical issues are discussed as part of the

analysis for 3110 rather than 3120.

MR. DELLATORRE: Right.

Q. There is a statement in KPMG's second response and I'll read that into the record: KPMG Consulting suggested that in lieu of a retest it could review the orders from the earlier PID retest that did not flow through to try to get a larger sample to determine Qwest's performance on manually handled orders.

That's the end of the quote.

Does that change your previous testimony about whether you were trying to reach conclusions and get some finding other than not satisfied through the review of that historical data?

MR. DELLATORRE: If we were able to -- you know, that was prior to our actually looking back at that population of orders. So our -- our hope in making that suggestion was to be able to avoid full-blown retesting, yes.

However, when we realized that the scale and scope of the population of orders available to us was insufficient for us to be able to draw conclusions on Qwest's manual order processing performance, and, in fact, if -- if you cite the rest of what it says in that observation response, it does call for the need

for a retest.

Q. And I'll represent to you that that response is dated 5/28/02, the date of the final report. But that does indicate, even though you are suggesting that you couldn't reach final conclusions unless you did retesting, that you were hoping through the review of historical results, at one point, at least, to be able to reach conclusions, correct?

MR. DELLATORRE: Yes?

A. Before execution of the test.

MR. DELLATORRE: Yes.

MS. TRIBBY: Thank you, Mr. Chairman.

CHAIRMAN GIFFORD: We're nothing if not generous here.

Ms. Doberneck?

MS. DOBERNECK: Yes, thank you, Mr. Chairman.

EXAMINATION

BY MS. DOBERNECK:

Q. Good afternoon.

A. Good afternoon.

Q. Hopefully to put away one subject for the afternoon about the unfiled or secret agreements, just a few follow-up questions: Did you ask -- have you asked either of the CLECs -- either the original three

identified or now the expanded list -- whether they had in some way refrained or failed to provide complete and adequate information?

A. No.

Q. Did you ask any of the CLECs -- either the original three or now this expanded list -- whether they believed they had received preferential treatment from Qwest?

A. No.

Q. Have you reviewed any of the transcripts from the proceeding in the State of Minnesota in which there has been extensive litigation of these unfiled agreements?

A. No.

Q. And in preparing either your first report -- I realize it was self-generated or self-initiated -- or this prepared or planned update, have you solicited any input from the ROC or the steering committee or the executive committee as to either facts they would like KPMG to consider or issues they consider pertinent or relevant to KPMG's report?

A. No.

Q. In response to a few of Mr. Dixon's questions regarding review of the Qwest commercial performance, that is the performance underlying the PID

reports, you indicated -- either you or Mr. Dellatorre -- that you looked at that particular body of commercial data, either where the measurement at issue was a parity measure or in connection with the reconciliation of the Pseudo-CLEC; that is correct?

A. Did you follow that question?

MR. DELLATORRE: No.

A. Could you restate the question?

Q. Sure. Talking about the commercial performance, the PID records, as I understood -- I guess it was Mr. Dellatorre's response -- KPMG looked at that commercial data in two scenarios, either where it was looking at a performance measure that was a parity measure that requires looking at the retail performance, or it was in connection with the reconciliation of the data collected by the Pseudo-CLEC; do I have that correct?

A. Yeah, if I could restate what I think you are asking me, yes, it is the case that we looked at Qwest-provided data in those two basic circumstances.

Q. Were there any other circumstances just to flesh out whether KPMG --

A. Not that come to mind. There may have been, but not that come to mind as we speak.

Q. Now, with respect to the commercial data

that was reviewed by KPMG in connection with the reconciliation or whatever phrase you want to use with the Pseudo-CLEC data, am I correct that KPMG did discover some errors in that commercial data?

A. Yes.

Q. Okay.

MR. DELLATORRE: I -- may I, just for clarity -- I think it's important that we establish different terms here: When we use the word commercial, typically throughout the report and our discussions here, we're referring to actual CLECs. So commercial data would be AT&T performance data, MCI performance data, Covad performance data.

What we're discussing here is a comparison of P-CLEC performance data, only not commercial data. There is Qwest's view of the P-CLEC data and there is KPMG's consulting view of the P-CLECs data. So there is no -- no commercial data of actual CLECs out there. I think that's an important distinction, so excuse me for the interruption.

Q. Not a problem. That doesn't change at all my questions.

In connection with your evaluation of the Qwest view of the Pseudo-CLEC and KPMG -- KPMG's view of that same data, am I correct that KPMG discovered or

uncovered errors in the Qwest data view?

A. That's Exception 3120.

Q. And those errors encompass both coding type issues as well as human errors type issues?

MR. DELLATORRE: Correct.

Q. Okay. And through Exception 3120, all of those were identified and then Qwest provided a response that was satisfactory to KPMG.

MR. DELLATORRE: Well --

A. Except for the case -- if you look at the original objection and the original issue, it was along the lines of, we didn't see what we expected to see; and as it turns out, some of that -- some of the data that was wrong was wrong because systems produced date that that was wrong; and in other cases it was because human beings produced data that was wrong.

MR. DELLATORRE: And, in fact, the reason that that exception was satisfactorily closed was not because of a Qwest response, but rather because of the successful execution of a retest.

A. And to be even more precise, the remaining issue that was in 3120, we carved out and created -- and created Observation 3110; and we could bifurcate that and take the resolved issues and put them on to the list of sort of closed things that were

Exception 3120; and the remaining outstanding problematic issue standing as Observation 3110.

Q. And I think you will be happy to know that all the questions that I ever possibly could have asked you about Exception 3120 and Observation 3110 have been asked and answered.

Turning then to what I think I can in -- even according to the KPMG definition, call the commercial data, and that is the data that was looked at for purposes of a parity comparison, now did KPMG undertake any review or evaluation to determine the accuracy or correctness of that commercial data for purposes of making a determination as to whether the parity measurement had been met for whatever criteria or criterion where there was a parity standard in place?

A. For the most part the scope of our activities relied on metrics or performance information provided to us by Qwest that had been the subject of the Liberty Consulting audit of performance measures and data and so on.

So we -- it would have been redundant for us to audit that which Liberty had already audited in the case of the retail data.

In the case of the data comparison that

we did that was a result of 3120, that wasn't anything under the scope of what Liberty did, and we did review that in the sense that we compared and contrasted raw data and found problems in that data.

Q. Okay.

I'm sorry, could you restate the last portion of your answer.

A. Yes.

Q. I think I confused myself, thank you.

A. No, I may have confused you as well.

I'm saying on the last part, I mentioned there were two ways in which we used data provided by Qwest, there were two types of activities. In the second type of activity which is where we compared information we had collected about individual transactions to information Qwest had collected about those same transactions that were done through the Pseudo-CLEC, when we did that data to data comparison, then we did -- I won't say audit the validity of it; but, by definition, because we had submitted those transactions, we knew what the answer was supposed to be. So looking at Qwest's recording of our transaction, I think you could consider a form of validation or audit of their data.

Q. Okay. And, here, let me tell you the

source of my confusion: When you were discussing point two, the manner when you did evaluate Qwest data, that that sounds to me like exactly the first part, which is it was reviewing the Qwest view of the Pseudo-CLEC data and the KPMG view of the Pseudo-CLEC data.

MR. DELLATORRE: That was a restatement of that.

Q. Gotcha. Okay.

A. Yeah, just to make sure we're really clear on this: The other type of commercial data that you referred to, which is case one, was where we took retail data out of the reports given to us by Qwest and used that to compare the average wholesale as delivered to the Pseudo-CLEC to the average retail as purportedly delivered to the retail customers at Qwest.

We didn't do any auditing of that retail data whatsoever. That whole set of processes and the accuracy of cross reports was the subject of the Liberty audit.

Q. So if Qwest were to state in response to any of the closed unresolved or the closed unable to determine observations or exceptions that it then had commercial data that suggested that KPMG's -- that -- whether it was closed or not was irrelevant because commercial data suggested Qwest was operating

satisfactorily; you wouldn't be able to render an opinion as to whether the data Qwest is relying upon has any indicia of accuracy or correctness?

A. That's correct. As we said, the division of labor and the test was such that Liberty Consulting was responsible for auditing the PID type of commercial data. So to the extent that the data being relied on by Qwest for commercial data was contained in those kinds of reports, the Liberty audit would cover that. To the extent there was any other type of data, it would be my guess that neither Liberty nor KPMG Consulting would be able to comment on that.

Q. Okay. Were you in the room when I was posing some questions to HP regarding Slide 14 which is executing the transaction tests?

A. (Nods head.)

Q. So you are familiar with some of the questions that I asked HP during that time regarding --

A. Yes.

MR. DELLATORRE: Yes.

Q. -- the components?

Great. I hope you will be able to answer those questions then.

With regard to the 11,000 figure for order submissions at Slide 14 of Exhibit 3, HP was able

to identify the list of products that constituted those 11,000 either original or supplemental LSRs. Do you have knowledge or information regarding the percentage break down by-product for those 11,000 order submissions?

A. Yeah, I -- I can say to you what we as designers of the test intended to have happen, because we didn't necessarily log the reason why everything was done on the HP side of the fence. For instance if they fat-fingered an order and sent another order in and they counted each of those orders in the 11,000, we can't tell you exactly what the mix is. We can tell you the intended mix was as follows: Resale POTS was roughly 41 percent of the intended orders. UNE-P POTS was 25 percent -- I'm giving you round numbers here.

Q. Sure.

A. UNI loops, almost 27 percent. And the remainder was other, cats and dogs. That was the mix.

You won't find that in the report anywhere. We went off at lunch and -- in anticipation of this question and tried to get that information for you. But that's the rough mix of what we had asked to have done.

And so the actual mix in the 11,000 might be slightly different than that, but it's close to

that.

Q. Okay, thank you.

And then when I was asking HP regarding the order responses -- and what I'm trying to focus on is those orders that were placed that were actually provisioned to completion as opposed to being canceled after a certain point in the provisioning process.

A. Right.

Q. Can you tell me -- it's my understanding that for the orders placed by the Pseudo-CLEC that were completed, that that was limited, based on your identification, to resale POTS and UNE-P POTS; is that correct?

A. Well, fundamentally everything was provisioned -- and I want to define what provision means in a minute. Everything was provisioned except planned cancels and EELs with portability.

Now, provisioned means different things because we had different types of accounts. Some were working lines where there was actual customer premise, dial-tone type, end-of-line sort of stuff. Some were just terminated in the central office as part of the design of the test bed. But the provisioning activities that had to do with switch translations that had to do with directory listing updates, that had to

do with most of the aspects short of truck rolls -- we had thousands and thousands and thousands of orders; so as not to disrupt the normal flow of business for real CLECs and real retail customers there was a limited percentage of working lines where there were actual lines out in a customer premise; a lot of other things terminated in the CO, so we could test a lot of things in provisioning.

But I don't want to deceive anyone into believing that we had 10,000 actual telephones out their working somewhere, because we didn't.

Q. Can you identify the percentage of working lines that were provisioned?

A. The working lines that we had -- I don't have a percentage for you. We need working lines for DUFs, for the DUF tests; so all the lines and connections associated with that were there. All of the lines associated with the M and R test had to be there so that we could do the real maintenance and repair kinds of things. And all the DS1 circuits were all working lines.

Those are the categories that were working lines. Everything else would have been virtual --

Q. Okay --

A. -- or physical.

Q. Okay. And I'm trying not to belabor within the types of testing; but what were the products, that allowed you to do DUF or M and R? DS1 circuits is obviously -- what I'm looking at is -- let me give you a context here: Resale POTS and UNE-P POTS are different than, say, a UNE loop. In some respects you could call it a billing loop because you can do a paper change and the carrier of record is a different provider without a lot of work. So I'm trying to work -- what I'm trying to get at is in the category of working lines, what kind of breakdown we had between what would be a billing or records change versus actually having to deliver a second loop, a two-wire nonloaded loop or a new analog loop, along those lines.

(Pause.)

MR. DELLATORRE: I think something that may help -- the information that you are trying to discover -- to supplement the test bed accounts which certainly were heavier in the retail and UNE-P side, we actually used commercial observations. And here again I'll refer to the definition I gave moments ago where those were actual real life provisioned orders, lines that we worked with participating CLECs.

And that was in excess of a thousand

orders that fell -- that fall into the commercial actual provisioned lines; so therefore working lines, by definition.

A. But the DUF test was resale and UNE-P, as you had described earlier --

(Pause.)

A. -- there was 219 separate individual telephone numbers associated with the DUF test.

Q. Okay.

A. So that was also resale UNE-P, the Provisioning Test 14 stuff -- a huge percentage of that was all --

MR. DELLATORRE: Commercial.

A. -- was all commercial working lines.

(Pause.)

A. We actually said the same thing, just stereo.

Q. And those thousand lines were distributed amongst the various regions, central, western, and eastern?

A. Correct.

Q. And for those thousand working commercial lines, KPMG was able to determine sort of from order placement through loop delivery, watching the physical activity along the way?

A. Let me make sure for commercial activities, especially with respect to Test 14 -- Test 14 was about provisioning, we cared less about the ordering characteristics for those because these are real CLEC orders. These were real CLEC orders. We really were interested in whether the provisioning was taking place on those.

We had ample record built through the Pseudo-CLEC on the CLEC's capability to order all of the various different kinds of products and services.

MR. DELLATORRE: But, in fact, we went one step further in the lifecycle beyond provisioning and that was to monitor for repeat troubles later in the lifecycle of that switch -- or that circuit, rather.

Q. And the repeat trouble determination was the PID time period that 30 days after --

MR. DELLATORRE: OP-5, I believe it is.

Q. Billing:

During my questioning of Hewlett-Packard, I asked a couple of questions regarding the interconnection agreement and the rate sheets. And I would like to ask you those same questions because I think you may have some additional information.

A. Uh-huh.

Q. I think we're all in agreement that there was in fact a rate sheet as part of the interconnection agreement that the Pseudo-CLEC had.

A. Correct.

Q. And that was the case for all states including Colorado?

A. It's my understanding --

MR. DELLATORRE: Yes, correct.

Q. And with the rate sheet that was -- I assume the rate sheet was originally provided by Qwest to the Pseudo-CLEC.

MR. DELLATORRE: Correct.

Q. And can you tell me what if at all KPMG did to assure the accuracy between the rate sheet provided and either final Commission orders, anything that was negotiated between the Pseudo-CLEC and Qwest or a tariff?

A. Well, the -- the rate sheets themselves are part of the interconnect agreement. They are a contract or negotiation. There is not necessarily, per se, an independent thing to validate it against. It's a contract. We can agree my rates going to be 12; there is no other resource to check it against.

So for the most part we wouldn't have done an activity that compares and contrasts rate

sheets to any other document because we wouldn't have believed that that was a relevant thing to do.

A contract is a contract and agreement is an agreement.

MR. DELLATORRE: Comparing the bills, however, to the rates and the tariffs and the interconnection agreement is what we did do.

Q. So if I understand you correctly, then what you are saying is when KPMG -- or when the Pseudo-CLEC reviewed the bill and KPMG in turn reviewed that for each, for example, line item listed, you looked and said, did this measure up to my rate sheet and does this also measure up to whatever the authority is for that rate?

A. For that rating element, whatever it is. And just to correct -- make sure the record is clear, Hewlett-Packard, as the interface for the Pseudo-CLEC physically resolved the bills. They didn't do any auditing of the bills, they just passed them through to us. We did the bill auditing; so in that sense, we were the billing department for the Pseudo-CLEC.

Q. I'm a little confused when you first responded about the rates in your interconnection agreement, it sounded to me like it was a negotiated contract. There is no need to look external to your IA

to determine correctness or accuracy.

Now I hear you say, when you are doing a bill review, you look at both the IA rate sheet as well as sort of the authority. So can you explain to me how those two statements reconcile?

(Pause.)

A. It turns out that some of the reports are UNE-Ps in the JAI; resale is tariffed, so you would refer to whatever you need to.

Q. Can I interrupt. You said JIA resale.

(Pause.)

MR. DELLATORRE: Some of the products are -- when covered in the JIA or joint interconnection agreement --

Q. Now I have the JIA down and we can proceed.

MR. DELLATORRE: They then refer you to a tariff --

Q. Sorry.

MR. DELLATORRE: -- rather than a negotiated rate.

Q. Okay.

MR. DELLATORRE: So there is need to look at one document to the next depending on the specific line item.

Q. All right. And then again I understand that at least during the course of the test Qwest issued rate notifications stating that they have been billing you in error, we need to change the rates. Do you recall that as being part of the things KPMG encountered as part of the billing test?

A. Yes, when we did receive those notifications we did audit whether they had retroactively applied whatever adjustments were to be applied and they used the correct rate on a going-forward basis.

Q. Okay. Can you explain to me why if KPMG went through the process up front of reviewing the bills, confirming for accuracy either against the IA or whatever the source was referenced in the IA, why then a rate notification was in order or required by Qwest?

A. We wrote observations and exceptions.

Q. I see. So what happened then, if I could put that in terms of, say, Covad receiving a bill, you initiated a bill discount; but it was -- it's a Pseudo-CLEC, it's an observation or exception.

A. Precisely.

Q. So when you did receive those rate notifications you compared them to whatever was in your index agreement or the tariff referenced in the

interconnection agreement?

A. Correct.

Q. Setting aside that which is compliance with, I guess, your IA or your tariff, did KPMG or the Pseudo-CLEC ever go through a rate change as a result of a commission-ordered final rate with an associated true-up?

A. Yes.

MR. DELLATORRE: Yes.

Q. And can you describe briefly what state that occurred in and how that process -- what proceeded?

(Pause.)

A. We don't recall the list of states. It was more than one.

Q. Okay. And as far as the true-up component of it, can you provide a brief description of how that occurred?

A. In the same way that whatever the effective date was supposed to be, if it was retroactively applied, then we would make sure that the right credits and adjustments went through. If it was prospectively applied, we would make sure the correct rates were used on ongoing forward basis on the bills.

Q And did HP or you in reviewing or acting as the HP billing department ever encounter the issue where a trip was initiated or products with different rate structures, their applications than that contained in the JIA, which I'm using as joint interconnection agreement?

A No.

Q At slide five, your presentation, it's talking generally. I guess I'm looking at page 5 just because it's talking about jeopardy notifications. This has been an area where we have talked about sample sizes and some of the challenges it can create or questions it might pose.

The question I have for you is, when we're looking at a particular sample size, did KPMG have any criteria or professional standards it applied that said at a certain size or a certain number of limited amount of orders that we cannot reach a conclusion of satisfied, not satisfied, or unable to determine?

A There are different types of tests. If we're doing a feature function test, I can get a satisfied or a not satisfied with a handful, one, two, three, four. A system either works or it doesn't work. So a very, very small sample size is sufficient

to allow you to make a conclusion there.

When it comes to a performance-oriented type of measure where you have to look at a number of events over time, because you want to calculate some statistic about those events and make a satisfied or not satisfied, then you need -- the larger the sample size, the better off you are.

As rules of thumb as documented in the statistical appendix to the MTP, there was an agreement amongst the parties to the collaborative about what tests would need to be evaluated using the dual test, for example, and what the minimum sample size was for that, what products that did not require that rigorous of a statistical analysis, and what the minimum sample size was for that desirable. Then depending on whether it's PID parity, PID benchmark or MPMS professional, we didn't always achieve what our targets were per the MTP's appendix. In those cases, when it was PID-related, we used the rules defined in agreement about what the minimum sample size was and we kept testing until we got that minimum size or discovered that we couldn't get that minimum size and took that issue to the TAG and the TAG discussed what to do about that test. There was several examples of the report where the TAG just acknowledged there was

no further testing that could be done because we just weren't going to get to the desired sample size of 140.

On those cases where it was KPMG Consulting's professional opinion that was determining satisfied or not satisfied, again, it gets back to the distinction between a feature function test and a performance-oriented test. We like to see for feature function a handful. When it gets to performance, we like to see 35, that kind of number, before we're comfortable. We certainly will make, if we can, a clear record, make inferences below that size, but we prefer to have samples like that when we're applying our professional standard.

Q You just said when you're applying your professional standard. You're using that in a manner different than the standards established by KPMG in its professional judgment?

A No. Those are the ones I'm talking about.

Q To be clear, since we've heard a lot about transactional testing, when we're talking about performance-oriented testing where I think you said you're looking at a series of events over time, can we use that, for the purpose of this discussion, as

synonymous with transactional testing or is it more broad than that?

A It would be more broad than that. But we can generalize to that for purposes of the conversation if that's helpful.

Q Speaking specifically about jeopardy notices for unbundled loops and here at page, I have, 93 of your report, there's a finding of satisfied for jeopardy notices for unbundled loop products. This is an aggregated measure, right? It's all unbundled loops, it's not broken down between an analog loop or a two-wire loop or anything like that; is that right?

A (by Mr. Dellatorre) Yes.

COMMISSIONER PAGE: What page?

MS. DOBERNECK: I have page 93. This was the report printed off the Web site. It's 12-9-6.

COMMISSIONER PAGE: Thank you.

BY MS. DOBERNECK:

Q Is it possible that because we're looking at an unbundled measure here that when we get down to CLEC-specific or product-specific in fact it's possible to have not satisfied?

A (by Mr. Dellatorre) Is that possible?

Q Sure.

A Certainly.

Q Within this test itself, we looked at it on a regional basis, right?

A Yes.

A (by Mr. Weeks) Yes. We disaggregated the information we observed and reported on a regional basis.

Q So is it then also possible that on a state-by-state basis within the individual regions that Qwest would have had a not satisfied had we looked at it on a state-by-state basis?

A That's perhaps true, again, provided the sample size is by state.

We organized this test by region, not by state, so the results were never intended to be used on a state-by-state basis.

A (by Mr. Dellatorre) It is possible that the facilities conditions, the work force conditions in a given state, the interval rules that apply may be such that the related performance in those given states could be different.

Q I had one clarifying question for you in regard to the final report. Let me get you a page. It's regarding CSR updates. This is in test 14 and I'm looking just generally at page 184 which discusses

CSR validation.

As I understand it, the purpose of the CSR validation was to determine whether Qwest updated in a timely fashion a CSR, or customer service record, after an order had been placed and completed by the CLEC; is that correct?

A (by Mr. Dellatorre) The first and probably more primary purpose of the CSR validation was the accuracy with which that CSR was updated. Subsequent to that, then, yes, there was a timeliness evaluation.

Q Did KPMG conduct the reverse evaluation, which is after Qwest either had a new order or there was something changed about the Qwest order, did KPMG evaluate whether Qwest accurately and then timely updated the CSR after some step it took would require a CSR update?

A (by Mr. Weeks) You mean not triggered by us?

Q Yes.

A If I'm understanding the question, which I will repeat in a different way to make sure I understand it, are you asking us if we evaluated the retail operations updating of the CSR information?

Q Yes.

A We did not.

Q Getting back to something I asked you a few minutes about. Essentially what we had with the test were four standards. The first were the PID standards which is the PID parity, a PID benchmark, and a PID diagnostic, and there was a fourth standard which was any standard for which there was no PID that applied and then KPMG in its professional judgment established a standard?

A Correct.

Q Are there any other standards or lack of standards that are utilized in this test? I simply ask that because I don't see anything that I want to confirm.

A We would not know of any others than the ones you categorized.

Q Did you consider it to be outside the scope of your retainer where there was, for example, a diagnostic measure to insert your professional judgment to determine whether a standard should be applied where it was otherwise designated diagnostic?

A There was a collaborative agreement which we honored to treat diagnostics in the way we have described.

Q So you considered it to be outside the

scope of your retainer to say affirmatively suggest we think diagnostic needs to be changed because there had been a prior agreement of the parties?

A I think it would be fair to say we understood it was explicitly, not implicitly--explicitly not our responsibility to do that--and that such a suggestion on our part would have been inappropriate and unwelcome.

Q Turning to the standards that were established by KPMG in the exercise of its professional judgment. Did the parties also agree in advance that was an appropriate thing for KPMG to do?

A I believe that would be a fair assessment. I'm trying to speak now for a large number of other people and a large number of other organizations, but it would be my belief that someone who participated in the collaborative process from the beginning would have that expectation and understanding.

Q I guess stated another way is, you didn't think you were in any way working outside the scope of your retainer by establishing and then measuring against a standard established in your professional judgment, right?

A The only other alternative would have

been to not make evaluation of those criteria at all.

Q That probably is not a very preferable option?

A Didn't seem appropriate to us.

Q A final question or two and I think this has been somewhat implicit in the prior responses you had given today but I want to make it explicit.

In the conduct and execution of this test, was it KPMG's preference to adhere to the military style test which is, for every observation or exception open to test until Qwest passed?

A That's the going in soft of default case, if you will. We also understood, since we'd been doing testing since the first test in New York, that either the company and/or the regulators can reach a point where it's no longer efficient, effective, possible, or desirable to continue testing in a particular area, and that there will be some portions of the test where you don't take that test until you pass all the way to conclusion.

Q I understand certainly either Qwest or a regulator would have that opportunity. What I'm asking is, you, KPMG, as the third party tester in this particular 13-state test, was it your preference to fulfill the military style test which is to have

Qwest test until it passed whatever problem or issue is identified of an observation or exception?

A We understood it was a design of the test that it be conducted with a test until you pass unless some other party other than us intervened to stop that cycle.

Q Are you not rendering a professional opinion or are you simply saying that you are executing what you were instructed to do to the extent you could?

A That was the agreement of the parties as to how the test would be conducted, and we agreed to conduct the test according to those rules.

Q Are you willing to render a professional opinion on this particular point?

A I don't know what opinion I'd be asked to give.

Q Is it preferable to have Qwest be tested until it passed any problem or issue identified in an observation or exception?

A Without exception? The answer is no.

Q Setting aside national disaster --

A If the question you're asking me is, do I believe that test until you pass is a blind rule that should be followed without exception, the answer

is no, I don't believe that should be followed as a principle.

Q How about for the O and Es that are closed or unresolved to be determined here, should they be closed?

A I should say we would have tested them until Qwest passed or decided it didn't want to do further testing, which it did in further cases -- in certain cases.

If you're asking me do I think Qwest shouldn't have said what they said, that's not any of my test business. As a tester, that's not my obligation. My obligation is to follow the rules and present the facts.

Would there be a stronger case on Qwest's part had they passed all of it and gotten themselves into the position that Verizon is in New Jersey when there was all satisfied in the report? I guess, if that helps everybody. But as a tester, I'm indifferent as to the decisions made by regulators or the company.

Q Just one final question just briefly. Can both of you just state the OSS tests that you have been involved in other than this particular ROC test.

A Sure. I've participated in some way,

shape, or form in New York, Massachusetts, Pennsylvania, a little bit in New Jersey, I've participated in Georgia, Florida, Texas, there wasn't a test in North Carolina but proceedings in North Carolina, and then the five Ameritech states.

A (by Mr. Dellatorre) New York, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Virginia, Florida, the five states of Ameritech, and the ROC.

MS. DOBERNECK: All right. Thank you. I have no further questions.

CHAIRMAN GIFFORD: Ms. Jennings-Fader, how long do you anticipate?

MS. JENNINGS-FADER: May I suggest we take a brief break?

CHAIRMAN GIFFORD: We'll take a 10-minute break.

(Recess taken.)

CHAIRMAN GIFFORD: Let's go back on the record.

We're going to have Ms. Jennings-Fader ask you some questions, Messrs. Weeks and Dellatorre.

Just so everyone knows, I think the plan might work the cleanest is if we conclude today after Ms. Jennings-Fader is done, then I think we'd be

concluded -- done with questions of the vendors, and we can resume tomorrow morning first thing.

I understand from Ms. Quintana that the preferred method of presentation tomorrow is for the CLECs to go first and then Qwest to roll its rebuttal case into the -- and main presentation.

After that, I don't know where that leaves you, Mr. Adams, but we can fit you in if you feel so moved to say anything on the record whenever you want. But I think that's how we'll proceed tomorrow and it looks like we'll be able to get through that, so on Wednesday all we have left is Mr. Stright.

MR. DIXON: For the benefit of the parties, Becky Oliver will go first for WorldCom, then I believe we'll go to Mr. Finnegan for AT&T on the CLEC presentation so that Qwest can once again prepare for the cross.

CHAIRMAN GIFFORD: Is that fair enough for everyone? Work for everyone? I think KPMG can fly off to wherever you go next.

MR. DELLAATORRE: Wyoming.

CHAIRMAN GIFFORD: Wyoming is lovely; it's not on fire. Yet.

Ms. Jennings-Fader?

MS. JENNINGS-FADER: Thank you, Mr. Chairman.

EXAMINATION

BY MS. JENNINGS-FADER:

Q Good afternoon, gentlemen.

My questioning will not be as organized as some of the questioning has been since I've not yet had the opportunity to go through this exercise with you, so forgive me if I somewhat move around through the report.

First, let me ask a few general questions. KPMG has indicated that it will make corrections and perhaps some clarifications to the final, final report dated the 28th of May of this year. Can you give the Commission some idea of when those corrections would be available?

A (by Mr. Weeks) It would be in the form of an errata page. I think weekend at the latest. Definitely be this week. It will be before Monday of next week.

Q Before the 17th of June?

A Yes.

Q Okay. Thank you.

Some more general questions. With respect to the discussion that you've had with the

parties so far having to do with diagnostic measures, I'd like to have slightly different discussion with you about diagnostic measures.

First, I understood you to state that the ROC OSS test was unique with respect to diagnostic measures insofar as there were so many diagnostic measures compared to other plans with which you're familiar; is that correct?

A That's correct.

Q Now, how have the other state commissions -- and I appreciate each of you reading into the record your extensive experience with respect to other OSS testing. How have the other state commissions, in your experience, treated diagnostic measures? By that I mean, have they used them as bases for their recommendations to the FCC? Have they assigned some weight, no weight, a lot of weight? Just in general, can you give the Commission some sense of how diagnostic measures have been treated in the past?

A We certainly don't have insight into all the deliberations and all of the backroom conversations that take place between and amongst Commission and staff and so on, and each jurisdiction has a different set of ceremony and process and those

kinds of things.

But the situations that I'm familiar with, I think there has been an attempt on the part of the Commission to take input from the parties as to the significance of the actual level of service delivered and then to consider that in the same way that they would consider any of the rest of the record, looking at the pros and cons of the advocacy cases and trying to weigh in on those, whether they felt the level of performance delivered at CLEC was consistent with the level of -- of the pseudo-CLEC was consistent with the level of performance that's delivered on a regular basis to CLECs that are trying to compete in that jurisdiction. There is that sort of competition.

And also looking at just the absolute values, trying to determine whether the level of service delivered as indicated by that is at a level that the Commission, at least in the back of their minds, established some kind of standard in their own mind as to what they thought was acceptable or not acceptable.

So I think it's a combination of a priori what's good, what's bad in their own minds, sort of influenced perhaps one way or the other in the

CONTINUATION

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final analysis with what they feel the compelling arguments were in the advocacy cases.

As far as going forward in the record to Washington, I don't really recall one way or another whether any of the diagnostic measures weighed heavily or not in any of the recommendations to Washington. I don't recall. It's been too long since we did all that and I just don't remember the answer.

Certainly the major issues that came out of most of the tests, the areas of concern to the state regulators and that the federal regulators cited as being areas that they were most concerned about in the applications were not necessarily in those areas. But again, as my earlier comments, the number of diagnostic criteria have been zero or very few in most of the other tests. Maybe that isn't as telling as it would be to help you guys decide what you're going to do here given the volume of diagnostics you're faced with.

A (by Mr. Dellatorre) To follow up on Mr. Weeks' last comment. What I've seen in the past, in the four categories of measurements that I believe one of the CLEC representatives articulated earlier, the benchmark standards, the parity standards, the diagnostic standards, all of the PID and then KPMG's

assigned standards, I believe rather than four categories, what I've seen previously is that there were truly only three categories; that there were the performance metrics or measurements or PIDs that may in some cases be parity and others benchmark, and then there were KPMG's standards applied. The concept of a diagnostic measurement didn't truly exist in some of the other jurisdictions that I'm familiar with.

Q Thank you, Mr. Dellatorre. You've allowed me to segue into another area I'd like to discuss with the KPMG representatives having to do with the KPMG established criteria for evaluation in the absence of the standards established either by benchmark or by parity.

I think that principally arises, if I'm reading this information correctly, when you're talking about evaluation criteria 18-6-1, 18-6-3, and 18-7-1. Is that essentially correct? I think those are the primary ones where KPMG has assigned values using its professional judgment?

A (by Mr. Weeks) No. I think there are hundreds of cases in the test where KPMG Consulting --

Q I should have been more precise. With respect to the issues that were not satisfied, closed, not determined, and I forget the other

category of closed.

A (by Mr. Dellatorre) Unresolved.

Q Unresolved. Thank you. I think those are the principle ones where it was a KPMG evaluation criteria of mine?

A There is a unique condition for criteria 16-3-5, that while there was a predetermined agreed-to benchmark or set of standards, they were not derived from the PIDs but rather from a benchmarking exercise that was done in open and collaborative forum where formal benchmarks were established. So 16-3-5 is somewhat of a hybrid between the KPMG consulting produced standards versus the existing PID standards. The maintenance and repair CEMR volume test went through this benchmarking exercise where the 13 relevant transaction types each had a standard established in advance of conducting the volume tests.

But as for your categorization of the other criterion 18-6-1, 18-7-1, you're correct, those are standards that where KPMG consulting produced.

A (by Mr. Weeks) As is 18-6-3.

Q Thank you. I appreciate that you have identified professional judgment as the basis on which KPMG selected in the case, for example, of criteria -- evaluation criteria 18-6-1 a 95 percent closeout.

I assume it's 95 percent that was the assessment of KPMG as based on its professional judgment, correct.

A (by Mr. Weeks) Correct. The 95 percent standard was our professional judgment. The actual number of observations were facts and then we would calculate the percentage and compare it to our established.

Q Thank you. Now, can you give the Commission some sense of what factors or experiences in the telecommunications area KPMG has which went into the foundation and provided the foundation for its professional assessment and judgment that 95 percent was correct percentage?

A Most of the benchmarks that we used in the ROC test are continuations of benchmarks we have used in other jurisdictions, so there is some sort of momentum or some consistency in most cases between the standards used in this test when we determine the standard and those standards used in many if not all of the other tests.

Some of the factors that went into the original decision-making about what should a standard be or what should the values of the standard be -- I can talk about the process we used to do that and I can talk about some of the people that executed that

process and I can talk about some of the thinking that went into that.

The process we used to set our standard is usually to sit down with a collection of people who have a significant amount of industry experience, both in the ILEC community, the CLEC community, the IXC community, who know these business processes very, very well, they have operated in that environment, some people for as long as 25 or 30 years, they understand what's achievable, what some of the difficulties and hurdles are in trying to accomplish a particular standard especially as it becomes more strict, and we convened a collaborative of the gray hairs, if you will, to sit down and talk about these things. What's a reasonable standard?

So the process was a collaborative process, the people doing it were people such as myself and my boss, and guys like Bob Falconi over there, with more years than he'd like to admit in the industry, people like Chuck Keene, former AT&T employee of many, many years, who have testified in regulatory proceedings over the years and given expert testimony back many years. That's how we did it.

Some of the factors we considered. We would, in general, hold a computerized process to a

higher standard of repeatability and consistency of performance than a manual process where human beings are involved. We never hold the company to the standard of perfection except in the sense that if they say a transaction should work this way, then it must work that way. Feature function testing, it either works or it doesn't work. Document is either accurate or inaccurate. So when we're talking about things where it works or it doesn't work, then the standard is perfection.

As we move away from those things and we move away to more performance-oriented types of measures, then we say that some reasonable amount of error is probably to be tolerated because the standard of perfection is just too high a standard to hold anybody or any company to.

So those are general principles that I would argue.

We have not, I might say, attempted to try to dollarize the impact of my of these failures on any of the CLEC community, we have not attempted to do any empirical research into the actual consequences in the CLEC community to picture failures that have occurred historically, so we haven't gone at it as an exercise in economics. We have really looked at it

more as a, what is a reasonable expectation?

We also applied what have we seen in other industries and in other service provider kinds of instances where there were negotiated service level agreements, those sorts of things, for computer environments and the like. We brought those experiences to bear as well. What kind of standards do people voluntarily agree to be measured by for these kinds of things? We've tried to factor that in as well.

A (by Mr. Dellatorre) An additional component is consideration and a knowledge and awareness of the underlying processes that we were evaluating.

For example, the receipt of various response types in the ordering process, our understanding of that interaction between the CLEC and the CLEC's end customer or the consumer and the CLEC and the ILEC in trying to retrieve preorder information as an example, that may need to be done on the fly while you're talking to your consumer as the CLEC, and therefore measuring that sort of performance in seconds is probably a worthwhile exercise.

On the other hand, response types that are confirming an order or confirming the completion

of an order can take minutes, hours, and days because there is not that immediacy of the impact on the end-user or the CLEC's ability to transact or find information in a matter of seconds. So we did also employ our knowledge of the underlying business processes in trying to establish boundaries for what reasonable performance would be.

Q Gentlemen, did KPMG apply these same -- develop its professional judgment-based benchmarks in the same way for the criteria that passed as for the criteria we're discussing that did not pass?

A (by Mr. Weeks) All the standards were developed before the start of the test so that we didn't know how Qwest was going to perform in any area before we started the test. But we established the standard before we started the test in that particular area so that we would have a clear understanding of when the company got to the point in the course of testing where they couldn't continue -- it didn't make sense to continue to test because they couldn't pass, for example. So if you say we're going to do 100 of something and it's 95 percent standard, as soon as you have six errors you stop testing even if that's six out of six, because there's no point; you can't pass at that point.

Q Once KPMG had determined its judgment-based criteria, were those then communicated to the ROC OSS test, either back to the ROC TAG or by some other means so that the standards were known, as you say, having been developed before the beginning of the test, the standards were known before the beginning of the test?

A No. In general, no.

A (by Mr. Dellatorre) The first point at which the community at large would be aware of the standards that we're applying was when we identified problems that we then published observations or exceptions where typically as a matter of course we would incorporate or identify what the standards were we were looking for and in fact why Qwest was not meeting that standard.

Q At which point one would say -- KPMG would have identified its judgment-based criterion as the benchmark and then followed from that?

A To follow on Mike's example of the six out of 100, if we had identified those six in May of last year, we would produce an exception that said we have a standard of 95 percent, these six have already been identified as incorrect, et cetera.

COMMISSIONER PAGE: May I ask a

question?

MS. JENNINGS-FADER: Please interrupt me at any time.

COMMISSIONER PAGE: Who did know about these standards that you set before the test started so there was verification that they weren't thought up during the test?

MR. WEEKS: They were in our detail test plans that were created in advance.

COMMISSIONER PAGE: And presented to?

MR. WEEKS: Those were reviewable by MTG and others that were administered and managing the test, but we didn't share them with the community at large in part in some cases because we didn't want Qwest to understand what the standard was either.

BY MS. JENNINGS-FADER:

Q Which is an interesting point. Why in your tester opinion was it important that Qwest not know the standard?

A (by Mr. Weeks) I think sometimes if you're a test targeting, you know how well you have to do in order to pass. You have a tendency to achieve to that level. We were more interested in understanding what level they would actually achieve in measuring and reporting that in an unbiased way.

If you know you only have to get an 80 on the final exam to pass the course, you might not work as hard as if you don't know what you need in order to pass the course.

A (by Mr. Dellatorre) We were evaluating Qwest based on not on how well they could perform on the test but rather how well they provide wholesale services.

Q Thank you. I would move on to a different area. These questions have to do with my understanding of your discussion today and also from reading report about test 19.6-1-17.

Am I correct that KPMG did not use a delay usage fee for returns, that is to say did not use the process when there was an incorrect or some question on the daily usage fees?

A (by Mr. Weeks) That's a correct statement. In fact, I would go farther than that. Not only did we not use it, we've not seen a single example of any single CLEC or any ILEC use it.

A (by Mr. Dellatorre) It's not used commercially either, to the best of our understanding. The returns process is not typically followed in its formal presentation as made available by Qwest. The CLECs don't indeed to employ that process to achieve

the same results that you would want to achieve in the returns process.

A (by Mr. Weeks) Normally they will call the help desk in the billing area and suggest that the DUF file they've received is not accurate. Qwest would typically look into that and if they agree, then the process would be to recreate the DUF file and send a new DUF file. So that I'm going to return these six records off of this file as some kind of return process is just not commercial practice.

Q I believe what you're saying is that there was a test of a process which while theoretically in existence was not used in practice and in practice an undocumented process was used for the same purpose to take care of a DUF problem?

A Yes. I think it's fair to say CLECs have more than one way to raise issues with a DUF file and for the most part don't choose the return process because it's more onerous and more labor intensive than the alternative that's available to them.

Q Okay. If I understand -- this is a genuine source of confusion for me. So instead of using the process, either the test process, the daily usage fee return process, which is set aside as not being something people really use, and instead of

using -- forgive me for calling it an undocumented process, but the other alternative, more informal process that apparently CLECs actually use --

A Correction. We did use that process. So when we discovered problems with the DUF, we would call the help desk and say we have problems with the DUF file and would communicate those problems and they would research for them, and then based upon what we saw, we would write observations and exceptions. So we did make calls to the help desk as well.

A (by Mr. Dellatorre) But we didn't evaluate the informal returns process. We employed it but we didn't evaluate it.

Q That's where I was going. That's exactly my source of confusion. Because I understood that at least with respect to the billing maintenance and repair and some other functions, KPMG was acting as the business office of the pseudo-CLEC for purposes of assessing the relationship of a CLEC to Qwest. I truly am confused as to why in the test KPMG opted to use the exceptions and observations process in the way in which you've discussed instead of doing more formal analysis, if you will, of the process that apparently most CLECs used.

A As you have indicated, that's a light

weight process which has two steps: Make a telephone call and receive a telephone call. So there's not a lot of process to evaluate there.

We are obligated by the definition of the master test plan to raise all problems and issues that we identified in the test in observations and exceptions. So we, on the one hand are obligated, to use O and E process. We didn't have a choice there and wouldn't have wanted to have a different choice. We in fact invented that process in New York, so we believe in that process. The other, which is the informal process, if we want to call it, there's just not enough substance or meat to it for us to have formed an opinion on it. Could we have? Yes, we could have. Did we? No. Was it MTP? We didn't do it.

A (by Mr. Dellatorre) The combination of three tests that we did do, we believe provides reasonable evidence to allow folks to draw conclusions and that is the actual DUF evaluation itself to determine whether or not the DUF is correct.

Secondly, the help desk evaluation, which assesses the ability and responsiveness and ease with which the CLECs can contact Qwest. But then also the account management evaluation which we monitored,

assessed, and evaluated the construction of and adherence to the account management process which in fact is the process that is invoked typically by the CLECs to address the DUF issues. So we did look at the account management process but sort of at a more aggregate level than specifically DUF returns. In fact, we attended those meetings and the pseudo-CLEC was involved in that as well.

Q A quick request for clarification. In some discussion having to do with the standalone test environment, you stated that KPMG did no transaction or advocacy testing of the standalone test environment; is that correct?

A (by Mr. Weeks) That's correct.

Q And then did not observe a pseudo-CLEC transaction testing of the standalone test environment?

A Pseudo-CLEC did not execute any transactions so there was nothing for us to observe.

Q Good. Thank you. But you did observe some real CLECs as opposed to pseudo-CLECs performing transactions on the standalone test environment, I thought you said, then later I thought you said something that contradicted and I want to get clear what happened.

Then I believe you said that maybe we didn't do that but we did definitely review documents and I think you used the term "artifacts," which I found to be an interesting term, then you talked about the versions you reviewed.

What's an artifact in that context?

A We used that phrase to describe anything that is a byproduct or work product or an output of some process or some set of activities that have taken place. So if there's a meeting it might be meeting notes, minutes; if it is testing, there almost always are test cases that show what were the inputs and were the outputs. Could be screen prints, could be computer printouts, it could be a variety of different things. But they're some kind of tangible, something besides oral representation that are documents, minutes, reports, screen shots, whatever the form is. Artifacts are things that give evidence or give credence to the fact that the process worked and that you can then inspect to see for evidence of the very steps in the process. It's a five-step process, can I see artifacts for all five steps, that kind of things.

A (by Mr. Dellatorre) A week from now someone could review the transcript of this hearing to

determine how this hearing actually took place, and that would be the examination of an artifact to determine who spoke, what they said, how it went.

A (by Mr. Weeks) Actually, it was more than just a CLEC. There's also a provider of services who works, I'll use the phrase, a service bureau on behalf of multiple CLECs. This company attaches to Qwest on behalf of many CLECs and has to go through the same testing and acceptance cycle and so on, so it was actually a CLEC and a service provider, the type I just described. We didn't actually sit there and watch them hit the submit key on transactions and watch responses come back in either of those cases. We talked to them about what they did, we had them walk us through the process as they understood it, we had them talk about what their experiences were during that, and we had them show us artifacts we could take away and review.

Q Thank you for clarifying that.

You gentlemen will be gone, one hopes, tomorrow when the --

A We didn't take that in a bad way.

Q -- when the adequacy study and Qwest's written response to that adequacy study are formally submitted into the record, so I would like to take an

opportunity while I have your undivided attention, to ask a few questions about the adequacy study, not its content but rather the context.

First of all, for the Commission's information, the adequacy study itself was formally produced -- published, I guess is the word, April 30, 2002. Qwest's response was made available, published, May 24 of 2002. So I think it's fair to say that it was fairly late in the process overall the testing process that this issue generated enough interest to result in the written study and then the response.

Can you give the Commission some understanding as to why this arose so late in the process.

A (by Mr. Weeks) Yes, I can.

As I indicated earlier, observation 3086 was sort of an omnibus training type of observation. It came after we looked at a large number of observations and exceptions that had been produced by HP out over a long period of time in the course of transaction. So we were monitoring all of that. So it took a long time to go through all that process for HP out to work through their observations and their exceptions, to get those closed and resolved and so on.

As we stood back and looked at that record that had been built over a number of months, we thought we saw what potentially might be a pattern, which was that it would appear to be the case that reps were making errors and that the fix was to go do some training of the reps so they would not make those errors any more. So we asked the question, is there something fundamentally broken about the training process that is causing it not to be effective and that what we're seeing in terms of error is a symptom to a larger problem which is a training problem.

When we went through the due process on that, which took some time, Qwest fundamentally said they had made certain changes, and we went in and looked at those changes, and that is documented in the difficult disposition page on 3086, and there was a discussion with the steering committee about this issue, because a certain member of the steering committee were very concerned about the whole issue of manual order processing. There was a discussion being held, as we indicated earlier, about whether or not there should be retesting of -- transaction retesting in the manual handling area in order to determine whether it looked like this retraining had worked and that the people were able to operate and as

evidence of adherence to this revised training process and the retrained individuals.

As a result of that discussion, as we've indicated earlier, the steering committee chose not to direct transaction retesting but asked the question, in your professional opinion do you believe that there is sufficient performance indicator definition out there that if there are ongoing post-test kind of problems in manual order processing that we would see that, that we would have dashes and gauges where things would get into the red line and we as regulators could step in and say I'm concerned about this area and follow up on it from a regulatory perspective, obviously leading into the QPAP and things like that as well.

So it really was triggered by a request from the steering committee to go answer the question, what is KPMG Consulting's professional opinion about the adequacy of performance measures over manual order handling?

Q And then the document, of course, sets out your professional opinion. I believe you have, Mr. Weeks, adequately stated the parameters within which this document is presented. It's a standalone document. It's just a judgment,

professional opinion -- I shouldn't say judgment, but a professional opinion and a judgment document as opposed to something integrated with the test?

A I would further add to that, that as that document clearly indicates, as you see that hopefully it will be clear to the reader that we do believe it is the professional opinion of a single organization. We also believe that the parties, regulators, CLECs, Qwest, should sit down and continue to use the collaborative process that they have and consider our suggestions and recommendations like they would consider any other suggestion or recommendation from any party, and go through the due process and decide which of our ideas are good and which are not good, and how to implement each of the ideas that are considered to be good, and how much level of detail to go to, and what disaggregations to report, and all of these things. We didn't want to substitute for due process. We would have hoped that due process would have lead to consensus agreement on what good performance measures for manual ordering handling are. But we were asked to do this, so we did it.

MS. JENNINGS-FADER: With the Commission's permission, I'd like to read the summary recommendations into the record so that my next

START

OF

RETAKE

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END

OF

RETAKE

questions can be put in some context. Again, this would be hearing Exhibit 6 which one hopes will be produced tomorrow for the record.

BY MS. JENNINGS-FADER:

Q From page 6 of KPMG's report: "In summary, KPMG Consulting proposes the following: Change PIDs OP-3, OP-4, and OP-15 to add disaggregations for manually submitted orders, electronically submitted orders that fall out, and electronic submitted orders that flow through. Define new PIDs for functional acknowledgements of manually submitted orders, accuracy of LSR rejection notices, conformance of FOC due dates with the SIG and service order accuracy."

Q Just for the sake of the record, I would note that Qwest's response does address these recommendations. For purposes of my questioning, I would like only to discuss the recommendation.

Mr. Weeks, with respect to these recommendations, are these recommendations or suggestions based on -- or do they include PIDs and levels of disaggregation with which you are familiar from other jurisdictions?

A (By Mr. Weeks) I don't think there's a specific -- there was not a specific attempt, on our part, to sort of survey all of the other sets of metric definitions that exist in all of the jurisdictions, and sort of get the greatist hits and drop them in here.

Having said that, I had also think that the thinking -- the people that did the thinking that went into this document are intimately familiar with what the performance measures are in other jurisdictions. So, certainly we were influenced in what we thought might be appropriate measures by what others who have gone through this regulatory process have judged to be appropriate measures.

So, there's not a 1-to-1 correspondence. I would not be able to sit here and tell you exactly which of these measures have been implemented in each

of the jurisdictions. But, clearly, I think there was an attempt to factor those things in.

Q And has the thinking of KPMG gone as far as the following: Let's assume that these recommendations are adopted and the process results in the new PIDs and disaggregations that KPMG suggests. Has KPMG considered whether or not these changed PIDs and new PIDs would be appropriate for inclusion in a Performance Assurance Plan, and, if not, that's fine. I am just curious.

A I didn't specifically ask ourselves that question, as we went through this. I think I will go back to my comments on the collaborative process and the need for due process to reach conclusions like that, and we weren't being presumptuous in the sense that we were trying to tell people what to do. We were really trying to point people to areas where we felt like there should be some helpful discussion and some decisions made, and that would apply to the QPAP as well.

Q Thank you. In several -- and this discussion will deal only with the closed unresolved, the exceptions and criteria which have not yet been deemed to have passed the test, so, those -- that general category. For example, in Exception 3086, and

also, well, 3086 is the best example, I think. There are differences in the --

COMMISSIONER PAGE: Exception or observation?

MS. JENNINGS-FADER: I am sorry. An exception.

COMMISSIONER PAGE: No, you said exception and I have written it down, there's an observation.

MR. WEEKS: Just for the record, there's both an O and E 3086, just to make it easy to be confused.

COMMISSIONER PAGE: Okay. Thank you. Sorry.

BY MS. JENNINGS-FADER:

Q This is specifically Exception 3086. There are differences in the results, are there not, as between the east and central and western regions?

A (By Mr. Dellatorre) Yes, there are.

Q Can you explain or help the commission understand how it is that there would be the difference in results as among -- between the three regions?

A Our -- one of the original assessments that were conducted, the regional differences did indicate that there were service order processers which

are central to the ordering -- preordering and ordering and provisioning activities. There were three different service order processers. So, that's probably at the heart.

A (By Mr. Weeks) E 3086, the title of that is, Qwest does not install nondispatch orders for the P-CLEC within the time period that is at parity with Qwest retail operations as measured in the -- as measured in the PID OP-4C.

A (By Mr. Dellatorre) Another possibility, given that specific PID, are the types of orders that are being submitted by the particular CLECs or the commercial environment in those regions. Because this PID, by definition, is measuring the average amount of time, whether that's three days, five days, six days, to provision all of the order types, regardless of what the mix of orders are. So, if you had one three-day order, one four-day order and one five-day order, the average installation interval would be four days. So, that mix of products and order types could be different across the regions as well.

The clarification that -- to add information -- is that the same circumstance could be true for the retail results in that particular region. That would -- folks are ordering from Qwest directly;

and, therefore, establishing the average installation interval for the retail side would be different, or could be different.

Q Okay. And then there are other ordering differences as among -- between regions, based on service ordering -- service order processers; is that correct? I mean, there are not only the differences that you have discussed with respect to the orders themselves, but -- and the types, and whatever, but also there may be differences with respect to the back system, if you will, the back office systems, the OSS themselves, that could account for some differences?

A (By Mr. Weeks) Well, I would say, there is probably at least 20 sources of variation that I can think of. One is those three different computing complexes, each of which could be of a different size, and each one, at any one instance, could have a different workload on it. There's also the case that because of the many ordering back-end systems, which are common to wholesale and retail, the volume of retail orders going through the service order processor assisting systems at the same time the wholesale orders are going through those service order processers could be widely different as well.

And then, as Joe has indicated, the mix

of retail orders could be different from one region to another, during a given time period. And then the difference in the mix between the wholesale order types and the retail order types could be radically different.

The problem with averages, you know, the average of 3, 4 and 5 is 4. The average of 3 and 5 is 4. And you start doing the math, and you can get great sources of variation in averages through underlying fundamental differences in business events, and you really don't -- you can't tell, by just looking at the average itself, what the source of variation is that sits behind the numbers you are comparing.

Q Okay. Thank you. I would like to discuss with you, now, Evaluation Criterion 16-3-5, and which is also related to Exception 3107.

And with respect to the -- let's see if if I get this right -- the nondesigned edit or modifier edit transactions. Okay. The standard was 24 seconds; is that correct?

A (By Mr. Weeks) Subject to check.

A (By Mr. Dellatorre) Yes. I would have to look. It was 24 and the performance was 27.

Q When the test results -- this particular criterion was not satisfied, and the exception was

closed unresolved, with performance that Qwest missed, that is did not meet the 24-second standard for five out of six categories for nondesign edits; is that correct?

A (By Mr. Weeks) I am looking through the report. On the normal day, where there's original test and retest, I am looking.

Q I think it says 29 seconds for nondesign edits on a normal day, which is a miss.

A Nondesign edit is 29. That would be a miss. On the normal day, diagnostic test, Normal Day 1, nondesign edit was 26. Normal Day 2, nondesign edit was 26. Retest Normal Day 2 was 24.

Q Which would be a meet or satisfactory.

A And peak day nondesign was 27.

Q And the stress day, which I understand is not diagnostic, if I am correct, if I recall correctly, is 27 seconds, which is also, if it had been part of the test, would have been a not meet, correct?

A If you held a stress day to the normal standard, which I wouldn't have.

Q Well, good. Because we'll get to that in a second. What does this mean? When -- and I don't know the stress test thing. But, what do these results -- what can this tell the commission about this portion

of the test?

A (By Mr. Dellatorre) Well, certainly one thing, just based on the information, that typically Qwest takes approximately 27 or 28 seconds to complete a nondesign edit. And if that seems like it's a reasonable number to this, the staff and commission here, then that's a conclusion that can be drawn.

Q Perhaps we should back up. What's a nondesign edit? What does that consist of? What were the activities which were being assessed?

A (By Mr. Weeks) This was an evaluation of your ability to go in and change an existing trouble report that you had submitted on a nondesign circuit.

A (By Mr. Dellatorre) Right.

Q Go ahead.

A So, that's the business function that was being tested. And we were testing their ability on the average.

Q Against?

A To deliver a response back to us in 24 seconds or less. And the answer is, they did not do that. They missed it by three seconds. And the significance of that, I think, is, as Joe indicated, you have to ask the question whether the standard being 24, did they miss? They got a 27. They got a not

satisfied but is 27, as an absolute value, still within the range of acceptable or not, would be the question I would be asking myself if I were the commission.

Q Okay. Now, back to the point you made; that if the stress day -- stress test were included, it would -- Qwest wouldn't have met that test, because it was 27 seconds instead of 24. You said you wouldn't have included that kind of stress test in this kind of a particular test. Why is that?

A No. My comment was that I wouldn't have held Qwest to the 24-second standard during a stress test. By definition, a stress test is trying to push a system beyond it's normal or even it's reasonable peak levels that you expect it to operate at in a normal fashion. What you are looking for is how gracefully the system performance degrades past a peak. You are trying to see if you are near the edge of a cliff, to where, as I move from peak to stress, the thing degrades kind of in a nice way or it gets really ugly real fast. And you do not expect, during a stress test, that the system will behave as efficiently and as effectively as it does during the normal and peak. It's just the design of the test, to pick a point you expect to be above the level at which the system should be able to operate normally.

Q Thank you. In the final report -- I am sorry. I don't have a page reference -- but, will you accept that I am reading this correctly. KPMG states that, quote, KPMG Consulting concluded that the difference of three seconds between the benchmark and Qwest's performance is statistically significant and constitutes an unsatisfactory result, referring to the same test that we have been talking about -- evaluation criterion we've been talking about. Can you explain what "statistically significant" means in that context?

A Yes. When we do analysis of data, based upon a sample, we do some statistical computations that let us try to understand whether the result that we saw could likely have been produced by a system operating at a normal acceptable level. And if that probability that you would get that big of a difference between what was acceptable and what you observed, if the probability that that would have happened in a normal population is small, you wouldn't normally think that that big a difference would occur. Then you can say, based on the statistical test, that there's a statistically significant difference. In other words, the probability that a system is operating properly would produce that big a -- bad result is very low; therefore, the difference is statistically significant.

Q With respect to criterion -- Evaluation Criterion 20.7-1-5, which is an unable to determine. And this was, "Process includes procedures to ensure that payments and adjustments are applied." KPMG noted that it did not do any transaction tests to make payments or to generate claims for which adjustments would have to be generated.

First of all, I guess my first question is, was that a requirement of the test or is this something that KPMG did in the implementation of the master test plan?

A Subject to check, I believe this is one of those cases where it's not explicitly excluded by the MTP. Rather, it is similar to discussion we were having earlier about returns on DUF; that the way that we made the company aware of billing errors was not by filing claims, but by writing observations and exceptions.

Q In the -- we'll get to the reference later. With respect to criteria -- evaluation criteria -- excuse me criterion 12-11-4, and Observation 3110, KPMG notes that it did not produce a comparison report that was -- and this, at least as I understand this -- contemplated in the Master Test Plan, but rather did another kind of report evaluation,

which I gather you all thought was sufficiently similar. And now, that has to do with the KPMG Consulting produced HP data to Qwest HP data comparison.

A Could you give us a page reference for that?

Q No, I can't.

A Because neither of us are dredging that up in our recollection.

Q No, I can't. I am sorry.

MR. CRAIN: It's 596, maybe.

MS. JENNINGS-FADER: I am sorry.

MR. CRAIN: Is it 12-11-4?

FROM THE AUDIENCE: That's what she said.

THE WITNESS: (By Mr. Dellatorre) I think the conclusion that we didn't produce the report that was called for in the MTP, we did something else.

BY MS. JENNINGS-FADER:

Q Well --

A That's what throwing us, I think, Mr. Weeks.

Q I may have misread it. But somehow you produced a report not -- something similar to but not what was called for in the master plan. If I had misread that, that takes away my question.

A (By Mr. Weeks) Let us read 12-11-4 and see if we can get what you are talking about here.

Neither Joe -- Mr. Dellatorre or I can kind of dredge out of our written comments, on 12-11-4, what you're referencing.

A (By Mr. Dellatorre) In fact, I would be willing to state the opposite; that we, in fact, did produce a report that we think is consistent with the requirements of the MTP.

Q Okay. Anything else? I thought maybe there was a news update or something.

A (By Mr. Weeks) In the interest of full disclosure, trying to make sure we have all the facts.

MS. JENNINGS-FADER: Let me have a moment. I think I am completed with my questioning.

(Discussion off the record.)

BY MS. JENNINGS-FADER:

Q Gentlemen, there's one additional question, and perhaps it might lead to others. But, with respect to your experience in other jurisdictions, are you familiar with any other evaluation or test in which the testing environment, for all purposes, the standalone-testing-environment-related criterion was closed not satisfied?

A (By Mr. Weeks) Yes, in New York, not

only was it closed not satisfied, it was nonexistent at the end of the test. And part of what the New York commission extracted from then Verizon, or then BellAtlantic, was a promise to establish such an environment, on a going-forward basis, as sort of a condition, if you will, to their approval. And some kind of, you know, substantial penalty for early withdrawal if they didn't get that obligation fulfilled.

Q Okay. And aside -- well, let's now talk about any jurisdiction in which there was a standalone test environment, or an existing test environment. Are you familiar with any jurisdictions in which the test criterion has been closed not satisfied with respect to the test environment?

A Subject to check, I believe we probably would have had that situation in both Pennsylvania and Georgia, probably in Massachusetts. But I would have to go look that up. Mass was. Okay.

Q I am sorry.

A We're talking amongst ourselves. I would have to go check the facts on that. I know that there were problems with standalone test environment as it existed at points in Pennsylvania, and I just don't remember whether they all got resolved before the final

report was written or not. And I know there were problems in Georgia with that same environment. And I am reasonably certain they didn't all get resolved prior to to the final report, but that is a question, in fact, that would be very easy to establish by going to the respective public record on that.

A (By Mr. Dellatorre) Just an additional piece of information that I just picked up from our team. There were conditions or there were open issues that had been identified that didn't necessarily result in a not satisfied as the result. But as you note in our report here, in the final report, for the ROC states, we will cite -- we will use the following language: KPMG Consulting formally identified problems X, Y Z, and then that problem may or may not be closed. And, in fact, I think all but Observation 3110 are in the closed resolved category. But Observation 3110, in fact, is an unresolved observation, which wouldn't necessarily lead to a not satisfied as the result being drawn.

So, there were conditions in other jurisdictions where the conclusion was satisfied and yet there were deficiencies, problems, issues identified with the testing environment that were articulated in the comment section, if you will.

MS. JENNINGS-FADER: I am now being called. Excuse me.

MS. JENNINGS-FADER: All right. I do have one additional question.

BY MS. JENNINGS-FADER:

Q Let's go back to my misunderstanding about the -- my statement that it had been KPMG that said that perhaps it had not met the report requirements for audit. In fact, thanks to my colleagues, it was an allegation or a statement made by AT&T. And they are -- it, rather, has made the observation to the commission that the test -- excuse me -- that the report that KPMG produced having to do with the HP data, versus or as compared to the Qwest data, was not -- did not satisfy the master plan requirements. Would you all like to comment on that particular -- I understand you haven't read the filing that AT&T made in this jurisdiction. If you are familiar with that allegation, do you have any response?

A (By Mr. Dellatorre) Just for context, that comes from Vendor Technical Conference No. 3.

Q Thank you.

A (By Mr. Weeks) There was an understanding that, at the beginning of the test, that,

for the performance measures and the underlying data, that was collected by the pseudoCLEC, that that data information results would be compared to the Qwest collected information for the pseudoCLEC measure by measure, data by data.

And in point of fact, we added, between the draft final and the final report, in Section 5, a table that I am trying to find the reference for right now. It's on -- the table actually -- it's several tables that start on page 707 of the report, where, if you will go to that, for example, PID GA-1, we have indicated whether or not we have completed a comparative analysis, "yes" or "no. In this case, the answer is no. We have used commercial CLEC data and not performed any analysis on that data, "yes" or "no." And that that case, it's no. Or whether we were -- there was no disaggregation at an individual CLEC level; and, therefore, we didn't do any analysis, which is the case here. So, if one goes through this set of tables, at the very end of the report, we describe what we have and haven't done.

And in the context of Vendor Technical conference 3, AT&T was surprised to learn that we didn't do some work that they believed we would do. And we did what we felt we were capable of doing and

able to do. And what we could and couldn't do we think are fairly well described at the end of Section 5 there. And so, you can look at AT&T's comments, you can look at those tables at the end of Section 5 and make your own determination as to whether you believe we have met our obligation or not.

A (By Mr. Dellatorre) Just for a brief explanation, for each of those categories, for the two larger of the categories, one being that we used commercial CLEC data. Well, of course, then, therefore there was no P-CLEC data for us to compare anything else to. For the second case, where there is no disaggregation at the individual CLEC level, again, there would have been no Qwest-produced data specific to the P-CLEC for us to have compared it to. But rather it is aggregated data for the entire CLEC community. And then, finally, the third condition was a small sample size where, again, we had a dozen orders or less, and the data comparison wouldn't have been particularly useful.

So, in those cases, where there was P-CLEC data that KPMG had captured, P-CLEC data that Qwest had captured, we did that comparative analysis.

MS. JENNINGS-FADER: Thank you gentlemen. Thank you, commissioners. Nothing further.

CHAIRMAN GIFFORD: Commissioners, any questions? I guess we'll let you head up the road.

MR. WEEKS: Appreciate the opportunity. If there are any further questions that you have during the course of the week -- I am not sure what the protocol here is in Colorado, for that, but we stand ready to answer any additional questions you might have as you deliberate on this matter.

MR. DELLATORRE: We will do our best to have the two documents that you are waiting on from us out very soon.

CHAIRMAN GIFFORD: That would be helpful. Sooner the better. Thank you, Mr. Weeks and Mr. Dellatorre, for being here today, and for your help in this process.

I think we'll conclude for the day. Well resume tomorrow morning at 8:30 with Mr. Dixon.

MR. DIXON: Fine with me.

CHAIRMAN GIFFORD: All right. We're adjourned.

(Whereupon these proceedings were adjourned at 6:00 p.m. on June 10, 2002.)

CERTIFICATION

STATE OF COLORADO)
CITY AND COUNTY OF DENVER)

We, Harriet Weisenthal, James Midyett and Kristy Turner, do hereby certify that we were present and reported in stenotype the proceedings in the foregoing matter; that we thereafter reduced our stenotype notes to typewritten form, with the aid of a computer, composing the foregoing transcript; further, that the foregoing official transcript is a full and accurate record of the proceedings in this matter held at Denver, Colorado on June 10, 2002.

FILED at Denver, Colorado _____.

_____
Harriet Weisenthal

_____
Kristy Turner

_____
James Midyett

PO-20 –

Manual Service Order Accuracy –

11 Jun 02 Proposal

PO-20 – Manual Service Order Accuracy – 11 Jun 02 Proposal

Purpose:
Evaluates the degree to which Qwest accurately processes CLECs' Local Service Requests (LSRs), which are electronically-submitted and manually processed by Qwest, into Qwest Service Orders.

Description:
Measures the percentage of Qwest service orders that are populated correctly, in specified data fields, with information obtained from CLEC LSRs.

- Includes only service orders created from CLEC LSRs that Qwest receives electronically (via IMA-GUI or IMA-EDI) and manually processes in the creation of service orders, regardless of flow through eligibility, subject to exclusions as specified below.
- Includes only service orders, from the product reporting categories specified below, that request inward line or feature activity (Change, New, and Transfer order types), are assigned a due date by Qwest, and are completed/closed in the reporting period. Change order types included in this measurement consist of all C orders with "I" and "T" action-coded line or feature USOCs.
- Service orders evaluated in this measurement are either (1) those selected randomly [NOTE 1] and manually inspected for accuracy as defined herein, or (2) when Qwest develops mechanized capabilities for this measurement as specified in the Availability section below, all service orders satisfying the above criteria.
- A service order will be classified as "accurate" and thus counted in the numerator in the formula below when evaluation determines that the fields specified in the Service Order Fields Evaluated section below (per the indicated phases), when populated on the LSR, are all accurate, as applicable, on the service order. Accuracy is defined as the contents of the specified fields, in the service orders involved in provisioning the service, matching the information from the relevant fields as provided in the latest version of associated LSRs.

Reporting Period: One month	**Unit of Measure:** Percent
Reporting Comparisons: CLEC Aggregate	**Disaggregation Reporting:** Regionwide

Formula:
[(Number of accurate service orders) ÷ (Number of evaluated service orders completed in the reporting period)] x 100

Exclusions:

- Cancelled service orders.
- Orders generated from LSRs with non-fatal errors.
- Orders that cannot be matched to a corresponding LSR.

Product Reporting:	**Standard:**
• Resale POTS and UNE-P (POTS) • Unbundled Loops (Analog and Non-Loaded 2-wire)	Diagnostic (until six month PAP review)

Availability:	**Notes:**
Under Development: • Phase 0 - Manual, random sampling approach: Jun 02 results reported in the Jul 02 report. • Phase 1 - Mechanized approach, replacing manual approach: TBD	1. Manually-selected orders will consist of 20 random, qualifying orders per day per product reporting category, specified above, from throughout Qwest's 14-state local service region.

PO-20 – Manual Service Order Accuracy (continued)

Service Order Fields Evaluated (by Phase of implementation)

Phase 0 – (01 Jun 02 Forward) Random sampling approach; Manual comparison of the fields from the LSR to the Service Order:

Field Code	Field Name	Remarks
CCNA	CLEC ID	Order entry validated from LSR Form
CLEC D/Tsent	Date sent to help ID App	Order entry validated from LSR Form
Name	Name of Customer	Listed Name if no DL form with LSR; Order entry validated from End User Form
SANO	Service Address Number	Order entry validated from End User Form
SASD	Service Address Direction	Order entry validated from End User Form
SASN	Service Address Street Name	Order entry validated from End User Form
LD1	LOC	Apartment, Floor, etc.; Order entry validated from End User Form
LV1	LOC #	Order entry validated from End User Form
City	City name	Order entry validated from End User Form
State	State name	Order entry validated from End User Form
Zip	ZIP code	Order entry validated from End User Form
PON	Purchase Order Number	Order entry validated from LSR Form
BAN1	BTN/GRP	Order entry validated from LSR Form in the Bill section
Date/ FOC'd date	Due Date on Order	Order entry validated from LSR FOC sent to the CLEC

Phase 1 – (Dates TBD) First phase of mechanized measurement

Field Code	Field Name	Remarks
Same as Phase 0	Same as Phase 0	

Future Phase – TBD in Long Term PID Administration; Additional fields included in mechanization, if any

Field Code	Field Name	Remarks
TBD	TBD	

Colorado Transcript of Proceeding, June 13, 2002.

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

Docket No. 02M-260T

* * *

IN THE MATTER OF THE COLORADO PUBLIC UTILITIES COMMISSION'S RECOMMENDATION TO THE FEDERAL COMMUNICATIONS COMMISSION REGARDING QWEST CORPORATION'S PROVISION OF IN-REGION, INTERLATA SERVICES IN COLORADO.

Pursuant to continuation, the workshop was heard at 9:05 a.m., June 13, 2002, at 1580 Logan Street, Office Level 2, Denver, Colorado, before Chairman Raymond Gifford and and Commissioner James Dyer.

APPEARANCES

(As noted in the transcript.)

PRESENTATIONS

Presentation by Mr. Wendling	6
Presentation by Dr. Langland	11
Presentation by Ms. Jenning-Fader	13
Presentation by Ms. Quintana	14
Presentation by Ms. Allstot	65

P R O C E E D I N G S

CHAIRMAN GIFFORD: We'll call Docket 02M-260T: Colorado PUC recommendation to the Federal Communications Commission regarding Qwest Corporation's provision of in-region interLATA services in Colorado.

We are here this morning for a Commissioner Decision Meeting on this record.

We have a number of discrete issues to take up based on issues relating to the final workshop Change Management data reconciliation public interest TRAC A Section 272.

We also have the burden today of trying to put piece this all together and decide what, if any, recommendation we will make to the FCC, and that will involve the entirety of this record, including all the issues in Docket 198T, Docket 041T and Docket 577T.

We will probably be here for a while this morning and perhaps into the afternoon, just so everyone is forewarned.

With that, I will turn it over to our advisors.

MS. QUINTANA: Good morning, Commissioners.

First of all, I would like to talk with you a little bit about how your advisory staff would like to proceed today and get your concurrence with that procedural outline.

We would like to start off first with Mr. Wendling. He will address the Qwest motion for the modifications to Exhibit A as a result of the Commission's RRR decision.

After Mr. Wendling is done, we would like for proceed with the public interest portion of this decision meeting. Dr. Langland will give some background on the FCC requirements for public interest and a market analysis.

Then I will present the more discrete issues that remain within public interest for your decision.

We will then move on to some leftover SGAT issues that were a result of your en banc workshop on public interest 272 and TRAC A.

From there, we will go to a discussion on TRAC A itself. Again, Dr. Langland will give a bit of background on the requirements for TRAC A and then I will discuss briefly some of the discrete issues within that.

Then we will do a discussion on

Section 272 and a couple remaining issues that the parties have presented for this Commission's decision.

After that, Ms. Allstot will present advisory staff's perspective on the various criteria from the ROC OSS test results. She will also do a brief presentation on the data reconciliation process and the recommendation on that.

Then finally, we will wrap up with my presentation on the different decision points left for the Change Management Process.

If that pleases the Commission, that's our recommendation on how to proceed today.

CHAIRMAN GIFFORD: Let's go forward.

MS. QUINTANA: With that, Mr. Wendling?

MR. WENDLING: Thank you. If it please the Commission, I'd like to start perhaps with an easy process today. Although getting to today was not without a great deal of effort. What I'd like to focus on now is generally incorporated in Exhibit A to the SGAT, Statement of Generally Available Terms and Conditions.

Qwest had filed its eighth revised SGAT in this instant docket, 03M-260T, which is the, if you will, son of 97I-198T in conformance with the

Commission's procedural order. Concurrent with that filing, the Commission was in the process of its deliberations on the second round of requests for rehearing, reargument, and reconsideration, or variously known as RRR.

After Qwest had filed its eighth revised, the Commission then entered its Decision C02-636 on that second round of RRR, revising some rates and making other changes to the Exhibit A which contains the prices for the unbundled network elements, or UNEs, and other collocation and interconnection terms, conditions, and prices for those terms.

Qwest, on June 7th, filed a motion to amend the SGAT to incorporate those changes from the Commission's order. They requested they be granted the ability to make those changes and they requested a waiver of response time.

On June 11th, AT&T filed a brief, three pages, of comments on a particular problem or two that they had identified with that compliance filing, if you will, of Qwest's, and then on June 13th Qwest filed an errata to its Exhibit A making changes to the Exhibit A to address AT&T's comments and some other noted problems with their filing of the June

7th.

So first thing I'd like to take up would be staff's recommendation regarding Qwest's motion.

Staff would recommend granting the June 7th motion and ,to the extent necessary, waiving response time but allowing AT&T's response to be considered.

Further, I don't know if we need to do anything with the errata. That comes in without further action.

MS. JENNINGS-FADER: I recommend to the Commission that it consider the errata Exhibit A in lieu of the Exhibit A which was attached to the original Qwest motion filed on the 7th of June. So actually substitute them and consider the errata as the filed SGAT exhibit.

COMMISSIONER BYRD: I agree.

CHAIRMAN GIFFORD: That's how we'll proceed.

MR. WENDLING: Thank you, Commissioner.

Reviewing in toto the Exhibit A and other footnotes to it, which are very important at this stage, and also an attachment which defines

the rate groups for pricing, the Exhibit A is in substantial compliance with what the Commission has ordered. There are some minor, what you would call, textual, if we were in the tariff business, letter or reference here and there that might be corrected in the future but there's plenty of time to do that and there's nothing in Exhibit A that would be so egregious as to make it unusable or not applicable.

In going forward, there is in the 577 docket, the underlying adjudicatory price docket, a Phase 2 wherein the Commission has indicated that there will be a scheduling conference soon to identify all rates that continue to be at issue, what new rates will require, additional studies and so forth.

There are rates for certain elements that the Commission has not yet had a chance to review or rule upon in this Exhibit A -- Attachment A, Exhibit A to the SGAT, and they are so noted within the note column of this, so that will help us identify from Qwest's perspective as well as we also have a filing in Advice Letter 2918 from AT&T their perspective as to what rates are going forward.

My recommendation today is to allow these rates to operate until we can finish Phase 2.

So, any questions before I make my

final recommendation on the rates?

COMMISSIONER DYER: No.

MR. WENDLING: Taken as a whole and given the status of the docket, staff would recommend that the rates contained in Exhibit A be found consistent, that they are consistent with our decisions in 577T as to their TELRIC base, their TELRIC underpinnings, if you will, and how they came about, and that therefore my recommendation today really comes out of the 577T docket, and I would recommend to the Commission that we find these rates acceptable for recommendation to the FCC of compliance with 271 by Qwest.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree with that as well.

MR. WENDLING: If it please the Commission, you notice by the agenda there that my name didn't appear again, although I stand ready to answer questions. If the Commission doesn't mind that, I'll just be on call.

CHAIRMAN GIFFORD: Feel free to take leave. We won't hold it against you. If you probably could come back near the end, I would appreciate it.

MR. WENDLING: Thank you.

MS. QUINTANA: We would like to proceed with a bit of background on public interest from Dr. Langland.

DR. LANGLAND: Good morning, Commissioners.

The telecom act of '96 set forth two tracks, basically under which an incumbent BOC could enter the interLATA markets. The essential notion there is whether the local exchange markets are irretrievably only open, that is, that the basic theory behind the Act is that if there are no barriers to entry then the competitive process or the possibility of the competitive process will serve the public interest. This Commission, under the heading of public interest, has used a consumer welfare standard, and as noted in the Hearing Commissioner's earlier decisions, that's short hand for a more complete welfare standard which is consumer producer welfare. The standard in which the Commission can evaluate whether the whether the 271 application by Qwest is in the public interest is whether or not there is a reasonable expectation and competent evidence to demonstrate that consumers and producers will benefit from entry into the local market and into the interLATA markets.

The notion behind the public interest under the FCC's guidelines and the act is not necessarily that there will be great competition or that there will be market share natural situation or any of the traditional industrial organization or regulatory analysis. It is built upon essentially the notion that if there are no barriers to entry then the market will function as if it is competitive in a more theoretical sense. That's the standard that the FCC has adopted, generally speaking, with the 271 applications that it has processed. Over time, the 271 applications, with the public interest criterion, have become increasingly refined to the point that in the FCC's most recent decision, the George a Louisiana order, also known as the GA-LA order, the FCC has articulated a standard that -- two things, basically. That if the markets are open, then in fact there is no need to consider anything further. Moreover, the FCC has come to rely increasingly on what is known as performance assurance plans in Colorado's case, the CPAP. That if in fact there is slight imperfection is or some level of uncertainty with respect to other components of the 271 application, the FCC takes great comfort that a state Commission has a C -- PAP in place, and in this case Colorado has an excellent PAP

in place. And that with respect to the FCC's overall judgment as to whether a consumer and producer welfare will be served and that the markets are open and will remain open on a going-forward basis relies increasingly on the notion of a Performance Assurance Plan.

So on that basis, Colorado seems to be well positioned to be able to satisfy some of those criteria at the FCC.

Questions?

COMMISSIONER DYER: Your briefing was excellent.

DR. LANGLAND: Thank you, Commissioner.

MS. QUINTANA: We will now get into some of the more discrete issues for your decisions, first within public interest.

Just as a general statement, the staff will be recommending along the way today that Qwest make certain changes to its SGAT. As a basis for these recommendations, I would like Ms. Jennings-Fader to address briefly the legal support for the Commission ordering further SGAT changes.

MS. JENNINGS-FADER: Good morning, commissioners. Very briefly.

In the Commission's order which directed Qwest to file its, quote, final, unquote, Statement of Generally Available Terms and Conditions, the same SGAT that Qwest intends to file with the FCC in support of its application.

The Commission reserved the right, appropriately, to direct further changes to SGAT language as that need may develop in subsequent Commission consideration. Therefore, it's our view that the Commission has expressly reserved and could now, if it chose to do so, exercise its right to order further changes to the SGAT beyond the language contained in the April 29th filing.

Just a brief background for the Commissioners' information.

Thank you.

MS. QUINTANA: The first issue that we have placed within the public interest section of this presentation is a letter that was addressed to Commissioner Gifford from New Edge Communications on April 11, 2002.

In this letter, New Edge claimed that Qwest's retail sales group has offered ISDN digital subscriber line, or IDSL, service over loops with integrated pair gain or integrated digital loop

carrier, IDLC. Previously, New Edge states that Qwest had advised them that IDSL was not available over loops with IPG and that those orders could not be processed. As a result, New Edge has not placed orders with Qwest when the raw loop data tool or their preorder loop qualification tool showed IPG on the lines. New Edge claims this is a clear case of discrimination.

Qwest responded to this letter on May 28th in its own letter to Commissioner Gifford and they also had responded in their April 26th, 2002, CMP comments, specifically in the affidavit of Mr. Robert Hubbard.

Mr. Hubbard states in this affidavit that in March of 2002, Qwest and Covad began meetings on the new INA solution which would allow the provisioning of IDSL service over IPG loops. In March of 2002, approximately 22 percent of ISDN loops provisioned for CLECs, about 716 loops in Colorado were served using the INA solution. If a facility is served by IDLC, then the INA solution is needed for the provision of that retail service. All of the information on the INA solution was presented at the Colorado Workshop No. 5 by Ms. Jean Liston and her supplemental affidavit, Exhibit 5-Qwest-37 and

specifically Attachment JML-8.

Qwest also states they have updated the PCAT, which is the Web-based documentation that CLECs use to support their service interactions with Qwest, and also in their technical publications to reflect more clearly that this type of service is available. A notice was sent out through the Change Management Process when these changes were made.

I'd like to respond to that last suggestion by Qwest first.

As you know, I have been involved in the Change Management Process approximately beginning of April. We did hold a call for the express purpose of discussing this problem in the Change Management forum. On that call, there were representatives of New Edge, Ms. Jean Liston was also on that call from Qwest, there were representatives around the tables from various CLECs, including WorldCom, AT&T, Covad, Allegiance and Eschelon, I believe. On that call the information that was supplied at the Colorado Workshop No. 5 was discussed. Ms. Jean Liston stated that the CLECs knew at that point in time that Qwest was having problems in the provisioning of this type of service over IPG. However, Qwest was working on a fix for this and at no point in time should the CLECs have

not submitted these orders, should not have made that business decision because Qwest never made the statement that it could not provision the IDSL services over IPG.

Ms. Jean Liston also did say on that call that they were working on the changes to the PCAT to reflect this service offering and that that notification would be going out shortly.

On April 10th, the CMP notification did go out. However, it was entitled "Geographic Deaveraging for Loop Products," and the only change that reflected this IDSL over IDLC service was an obscure reference at the bottom of approximately 25 pages of changes that simply refers the CLECs to a job aid, and once you get into that job aid then there is a matrix that is titled "Pair Gain Devices Compatible With Unbundled Local Loop ISDN and xDSL-I." There is no further description, as far as I could tell, either the job aid or in the PCAT.

I also, in my preparing for this recommendation, went back and reread the transcript from Workshop 5. It became more and more clear to me as I reread that transcript that it was not expressly stated one way or the other throughout that discussion if Qwest was referring to just analog loops for this

INA solution or analog and digital or digital-specific.

What I can tell you is that there were changes to the SGAT that were made as a result of that discussion and the changes that were made were for Section 9.2.2.2.1. That section is simply for the analog unbundled loops. There was no change as a result of that workshop made to the digital loop section of the SGAT, which is Section 9.2.2.3.

I guess now I would like to open it up for questions and then I do have a recommendation on this issue.

CHAIRMAN GIFFORD: Questions?

COMMISSIONER DYER: No.

CHAIRMAN GIFFORD: It seems like something that popped up late and a misunderstanding, so I don't feel particularly uncomfortable shoe-horning it into the public interest section. It obviously should be done in Workshop 5, but I think we can make this change or order this change or recommend it be a really good idea this change happen. So please make your recommendation.

MS. QUINTANA: My recommendation comes in three separate parts. First of all, as I stated, I could not find any further reference in the PCAT to

the INA solution which is basically an 11-step process that Qwest has stated in its response it uses for both analog unbundled loop provisioning as well as digital loop provisioning. I could not find a reference in the PCAT, and, as I already stated, it is definitely not in the SGAT section 9.2.2.3 for digital loops.

What I would recommend is that the language that is contained in 9.2.2.1.2, which is the analog unbundled loop section which reads follows: "If Qwest uses integrated digital loop carrier (IDLC) systems to provide the local loop, Qwest will first attempt, to the extent possible, to make alternate arrangements such as line and station transfers (LST) to permit Qwest to obtain a continuous copper unbundled loop. If an LST is not available, Qwest may also seek alternatives such as integrated network access, INA, pair pinning, or placement of a central office terminal to permit CLECs to obtain an unbundled loop. If no such facilities are available, Qwest will make every feasible effort to unbundle the IDLC in order to provide the unbundled loop for CLEC."

I would recommend that that language also be placed within Section 9.2.2.3.2 which falls under the digital capability loop section. As well, I would recommend that the flow chart that is JML-8,

which explains Qwest's decision process in provisioning these unbundled looped, be placed into the PCAT. When that is done, I would recommend that Qwest send out a notification through the Change Management Process.

CHAIRMAN GIFFORD: One other question. I'm agreeing with you and think we should do that. One question that may be more properly directed to Ms. Jennings-Fader, which is, in light of the D.C. circuit's apparent vacation of the line sharing order, I know we've proceeded in the pricing and I would assume that Qwest is proceeding in its application as if the line sharing obligations are still in effect and this is kind of part and parcel of that.

It would still be your recommendation to go ahead and request this change be made, I assume, and if we're going to have a fight over line sharing, first of all, it won't happen here, it will happen at the FCC, and my guess is, it's a much larger fight than this little detail of when and how line sharing happens.

MS. JENNINGS-FADER: Essentially, yes. I believe that the Commission should proceed as if the FCC's requirements continue in effect. If it should subsequently develop that they are found not to be

in effect by a higher court than the District of Columbia Circuit, and I assume that issue will be going to a higher court, then appropriate steps can be taken to amend the SGAT or the FCC can take that into consideration.

CHAIRMAN GIFFORD: I just wanted that background to be fleshed out because we are working in this area in particular and an area of what is now some uncertainty.

COMMISSIONER DYER: I would agree with your three recommendations.

CHAIRMAN GIFFORD: I would agree that should be added.

MS. QUINTANA: Next issue under public interest is one that Mile High Telecommunications -- I'm sorry, Mile High Telecom filed comments on May 16th in this docket. They currently do have a complaint pending before an Administrative Law Judge in Docket No. 02F-275T.

They claim that Qwest is violating both its tariff and FCC regulations for billing problems, confidentiality rules in its win-back problem, and unreasonable deposit requirements. Mile High Telecom requests that the Commission withhold deciding whether to grant Qwest's application

for 271 approval and conduct a further inquiry on Mile High's issues. I did not see that Qwest filed a response in this docket. I'm assuming that they are filing their responses within the complaint docket rather than pursuing it in Docket 260T.

My recommendation would be along those lines as well. I think that because Mile High Telecom has a complaint pending before the Commission, that you should not rule on the merits of their complaint in this docket. I believe that these issues will be ruled on by an Administrative Law Judge and possibly then on exception come before you-all as the full Commission.

So I would basically recommend that you do nothing with this complaint at this time in this docket and that it also should not hold up a final recommendation on public interest.

COMMISSIONER DYER: I would agree with that.

CHAIRMAN GIFFORD: This is going to be a recurring issue going forward in future decision points.

We have had this phenomena arise in the last month of participants interposing late objections for the purpose of delay and trying to

partially litigate a larger issue in this docket on an incomplete record, and that has no particular connection to the 271 criteria and certainly no particular connection to consumer producer welfare that would, as we said in the public interest orders, tip the balance to us having to forestall proceeding forward on an application. This is the first instance of that and I would certainly deny Mile High's request.

COMMISSIONER DYER: I would agree with the Chairman.

MS. QUINTANA: Thank you.

As the Chairman pointed out and as Ms. Jennings-Fader reminded me, Mile High Telecom did not actively participate in the 198 docket or the 260T, so this was a very late comment filed.

The next issues are the so-called unfiled or secret agreements. The way that Ms. Allstot and I are going to proceed with this issue is, I am going to address it from a public interest standpoint and later in her presentation on the ROC OSS test issues, she will present it from a data integrity standpoint. So we're parsing the issue in that way.

AT&T originally championed this issues

before the Commission, and it was largely based on a case that they had before the Minnesota Commission. AT&T presents here and in the Minnesota proceeding focuses on the secret agreements that Qwest made with CLECs, specifically Eschelon, Covad, and McLeod, that according to AT&T involved interconnection arrangements on service quality considerations, and that because they were not filed with the state commissions they were not of -- these terms and conditions were not available to other CLECs.

AT&T put five of these agreements into the Colorado record and held extensive oral argument during the Commission's public interest workshop.

As you recall, AT&T did file a motion to reopen proceedings to allow the Commission to investigate this instance further within the 271 proceeding. The Commission denied that motion, basically stating that this information is already in the record and you saw no reason to hold a further investigation within the 271 docket.

AT&T narrows the focus to three issues within these agreements. The first one is Qwest's inability and lack of willingness to provide interconnection on a nondiscriminatory basis, the second is the violation of federal law by Qwest which

carries public interest implication affecting Qwest's application for 272 approval, and the third is the licensing of Qwest's opponents in these and other Section 271 proceedings which Qwest specifically bargained for and sought and which now impugns the completeness and the integrity of the record in this case.

Qwest in its response claims it has filed all agreements a fail under the requirements of Section 252(a) for the 90-day approval process. There's a lack of clarity with this standard, according to Qwest, and it is seeking clarification on this from the FCC through a petition for declaratory ruling.

Qwest also states that it has made a voluntary commitment to provide copies of all of the contracts, agreements, and letters of understanding with CLECs that create forward-looking obligations to meet the requirements of Section 251(b) or (c). Qwest also states that it will work with state commissions and their staffs and solicit guidance on the treatment of these agreements that may be close to this standard.

As I stated, I recently denied AT&T's request to reopen the 198T proceeding. I would also

remind you that staff is conducting an informal audit at this time of Colorado agreements and is currently consulting with the Commission attorneys on the contract language that are contained in the documents that they did get back as part of their informal audit.

I would like to address each of AT&T's three points in turn, if I may.

The first -- I would just make the statement are that until we get clarity on the FCC on the petition before it and also the results of the staff investigation, I don't think we can draw this conclusion on AT&T's claims, that being Qwest's inability and lack of willingness to provide these represents discrimination.

Their second point, I would just state that the federal law should be more clear on when the FCC rules -- should be more clear when the FCC rules on this pending petition. Until that time, the CLECs and Qwest have a different understanding of a part of the Act that on its surface seems cut and dry but obviously can be interpreted different ways.

To their third point, this being the silencing of Qwest's opponents in the 271 proceedings, I don't really see how this argument works. I believe

that the only agreement that I have seen in the record that contains this agreement is the one made between Qwest and Eschelon. Eschelon has not participated in the 271 proceedings in Colorado, that is true. However, Eschelon has participated to a great extent in the Change Management Process and in the redesign effort of the Change Management Process. They have been very vocal in that forum on their problems that they have had with Qwest and their wanting to make changes to correct those problems that they've had with Qwest's OSS and also on their methods and procedures.

I must say that Eschelon entered into this arrangement with Qwest on its own free will. I don't believe that the 271 proceedings have any type of a gap for Eschelon not to participate in the 271 workshops themselves. I think it was a business decision on their end and they thought that it was best for the company at that point in time.

There are many CLECs that have chosen not to participate in the 271 process for whatever reason, and it seems to me Eschelon had as good of a reason as anyone.

I agree with the Iowa Utilities Board decision when they stated an incumbent LEC will be

even more hesitant to make concessions in subsequent negotiations when it knows that such concessions would be available to all of the competing carriers with which it previously had agreements. There's not much we can do about the pick-and-choose provision now, but I just make that statement.

Are there any questions on this part of the discussion?

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: No questions.

MS. QUINTANA: Bottom line, my recommendation is, while these agreements are an interesting discussion and staff does have an ongoing investigation into these, I don't think that AT&T has shown that they have reached the weight of finding that Qwest has not met the public interest criteria because of this. This staff investigation will proceed, and if major issues are found from that proceeding, they can be handled in a separate docket.

COMMISSIONER DYER: I agree with that.

CHAIRMAN GIFFORD: I agree as well. I think you provided a very good summary, Ms. Quintana.

There are really two problems notionally with treating this supposed unfiled

agreement problem in the 271 docket.

First, there was no attempt whatsoever to tie the fact of it, to the extent it's an established fact, of unfiled agreements to the consumer welfare standard. There's no clear 271 remedy if in fact it did happen. I discuss this and other issues that were brought up in the public interest order, but the only remedy we had offered to us for these unfiled agreements was some sort of investigate more or put Qwest in the penalty box for a while. How long, it's unclear. But given the nature of the 271 process, there is no remedy out of 271 that would solve this problem.

The second problem which was also manifested throughout the public interest record is this half-baked record that you end up getting on these issues where you don't really have an adequate and fully litigated record such that you can meaningfully make decisions. Rather, you ask to draw very large inferences from a smattering of the record.

Again, the staff here is looking into this issue. It could potentially be a serious issue and we don't discount it, but no one ever made the connection to 271 and how it fit in and what you would do even if it did fit in to satisfy us that it

represents a cause for delay, and in fact the only remedy that was ever proposed was delay, nothing more. So I agree with your recommendation.

MS. QUINTANA: The next issue came as a result of some comments that were filed by the Office of Consumer Counsel in the public interest en banc workshop on May 3rd.

In these comments the OCC states that the CPAP provisions are rigorous in all aspects except for the unambiguous ability of the Commission to make changes to the plan. The OCC is concerned that the CPAP should have granted the Commission broad authority to make changes regardless of Qwest's acquiescence.

Qwest did not specifically respond to this within this docket. However, as we all know, there was extensive back-and-forth dialogue and comments and compromises and many, many hours of discussions within the CPAP docket, 041T.

As a result of that, I am extremely reluctant to recommend any changes of this nature to the CPAP at this point in time. I think that after all of these meetings and the Commission's final decision on the CPAP, we arrived at what I think is a pretty good compromise around the changeability of

the CPAP. The Commission accepted Professor Weiser's recommendation for the off-the-table review process, the 10 percent financial collar, and the right for judicial review should Qwest disagree with anything the Commission might order. I don't know if we will or won't have problems with this in the future, but at this point in time, without that looking glass, that I think this is the best we can do and there should not be changes made.

COMMISSIONER DYER: I would agree.

CHAIRMAN GIFFORD: I think you put it well, Ms. Quintana. I have no small amount of sympathy for the OCC's view, but there is no way we're going back there. It was a hard battle to hammer that out and I think we got something that everyone could live with.

MS. QUINTANA: The next issue was also in the OCC's public interest comments filed on May 3rd. This is one that deals with residential competition.

In its comments the OCC stated that the extent of competition in Colorado's local market should be relevant to the public interest analysis. The CLEC's share of the local residential and small business markets is only 5.4 percent, according to the

FCC's June 30, 2001, competition report. Although Congress declined to include a market share test for Section 271 approval, the actual extent of competition should be relevant in this public interest analysis.

Mr. Dave Teitzel's presentation on behalf of Qwest on May 7th at the Commission en banc workshop, he addressed this competition question. In his exhibit, which was hearing Exhibit 1 to that en banc workshop, Qwest claims that as of February of 2002 CLECs have approximately 157,960 resold and facilities-based residential lines in Colorado. This accounts for 8 percent of all residential lines. In addition, Qwest provided the Commission with entry strategies of various CLECs who are entering the local market, including MCI/WorldCom, AT&T, Eschelon, and McLeod.

I think that this boils down to more of a TRAC A issue than a public interest issue, which we will address in a little bit.

As the OCC pointed out, the FCC has stated that there is not a requirement for a market share analysis of any kind. We have seen the FCC grant applications for 271 approval by BOCs that have had very little CLEC competition in the residential or even the business market. In fact, in the Bell

Atlantic New York order, the FCC stated, "Moreover, pursuant to Section 271(c)(2)(b), the Act provides for long-distance entry even where there is no facilities-based competition satisfying Section 271(c)(1)(a). This underscores Congress's desire to condition approval solely on whether the applicant has opened the door for local entry through full checklist compliance, not on whether competing LECs actually take advantage of the opportunity to enter the market."

In the recent Georgia/Louisiana order, the FCC stated, "We disagree with those other commenters that assert that under our public interest standard we must consider the level of competitive LEC market share, the weakening economy, or the financing difficulties of competitive LECs. We have consistently declined to use factors beyond the control of the BOC, such as the weak economy or over investment and poor business planning, by competitive LECs to deny an application."

The bottom line recommendation on this is that there's not a whole lot to be done for this Commission. The FCC has made it clear that they're only concerned with the opening of the market and not the actual amount of penetration by its CLECs.

Hopefully if we have gotten the prices right, the CPAP right, et cetera, we will see more residential competition in the near future.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I think you put it well, Ms. Quintana, that the FCC has expressly disclaimed any sort of market share analysis. I noted in the GA-LA order that they didn't mention retail rate regulation being a barrier to entry, but maybe we can deal with that later.

As Dr. Langland and I spoke just before coming out here, it's my view that the '96 Act approaches things along the contestability standards and contestability theory for market entry, something pioneered, ironically enough, by AT&T in the 1980s. I certainly think that the FCC's market share analysis or disclaiming market share analysis is part and parcel of looking at whether BOC entry is warranted through the prism of some sort of contestability standard.

MS. QUINTANA: That's a very good lead-in to our next topic, which is the price squeeze and caps on retail prices discussion that was brought up originally by AT&T in its public interest brief filed August 22, 2001.

In this original public interest brief, AT&T argued that a relevant part of the public interest standard is whether under UNE rates a competitive entry is viable. The fact that local entry is unprofitable at the prevailing UNE rates is, on its face, precisely the sort of relevant factor that would frustrate the Congressional intent that markets be open before interLATA entry is approved--this was from the Bell Atlantic New York order at paragraph 423--particularly because it is obvious that local entry is vitally dependent upon appropriate pricing.

Put simply, "Regardless of a BOC's checklist compliance which had not even been remotely demonstrated here by Qwest," this was back to AT&T's comments, "CLECs cannot profitably enter local markets, then those markets, as a practical matter, are not open to competition."

Qwest responded in its supplemental comments on public interest filed on April 26th, 2002, to this price squeeze issue. In this response, Qwest attached the FCC Verizon Vermont decision which contains a discussion and a decision by the FCC on the price squeeze issue. The FCC affirmed that a reasonable UNE price squeeze argument must account for

a number of factors ignored by AT&T, including the existence of other methods of market entry and the possibility that states themselves might have contributed to an alleged price squeeze by capping retail rates at an extremely low level.

Qwest states that, "The Commission should affirm the Hearing Commissioner's decision that Qwest should not be held accountable, nor should its application to the FCC be held up for the low retail price cap in Colorado."

As an advisory staff statement, I would just note that the Hearing Commissioner did already reject AT&T's position on the price squeeze in the decision on Volume 7 in which he stated, "I reiterate that Qwest should not be liable for the errors, distortions, and imbalances of the rate structure approved by the regulators or in this case the legislature. To hold up a Section 271 approval because of a distorted retail rate structure would be inequitable to Qwest and delay competition's benefits to Colorado consumers."

In the SBC Kansas/Oklahoma order, the FCC stated that, "Incumbent LECs are not required pursuant to the requirements of Section 271 to guarantee competitors a certain profit margin."

CONTINUATION

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Further, in the Verizon Vermont order that was attached to Qwest's comments, it states, "We conclude that AT&T and WorldCom have not established the existence of a price squeeze because they have not shown that UNE pricing at issue dooms competitors to failure. We do not believe that it would be in the public interest to deny a Section 271 application simply because the local telephone rates are low.

I would recommend that the full Commission affirm the Hearing Commissioner's decision. I think that the FCC has been very clear on this.

As of recently on the price squeeze argument, I think that the rates that have now been set in the 577T docket did take into account the residential rate cap that is part of the statutes here in Colorado and that nothing further needs to be done on third.

COMMISSIONER DYER: I'll affirm the Hearing Commissioner's decision.

CHAIRMAN GIFFORD: Not surprisingly, so would I.

We've dealt with the price squeeze issue both in Volume 7 and in 577T and I think we found, first of all, that the price squeeze was not

proven in fact. Second of all, we dealt with it in a more theoretical side in Volume 7, and I think that we pretty much did get it right. The First Circuit decision in Town of Concord, I think, also makes clear that there would be no consumer harm.

In any event, above and beyond that the other analysis that we see in the FCC Vermont order, really we foresaw that in our Volume 7 order and therefore I don't think that the price squeeze issue, which we have a pretty thorough discussion of in two places, is a public interest hurdle here.

MS. QUINTANA: The next issue was brought up by AT&T in its offer of supplemental authorized filed March 6, 2002.

In this offer, AT&T claims that in this filing that Qwest violated its interconnection agreement by failing to provide adequate systems testing. AT&T filed a complaint in Minnesota regarding this testing and the Administrative Law Judge there found for AT&T on February 22nd, 2002, stating that Qwest committed a knowing, intentional, and material violation of its obligation to engage in cooperative testing. "AT&T requests that this Commission enter a finding that a grant of Qwest's 271 obligation is not in the public interest and also

require additional and appropriate safeguards to prevent this anti-competitive behavior from happening in the future."

Qwest responded on April 9, 2002. In its response, Qwest indicates that the staff of the Minnesota Commission asked the Commission to reject the A.L.J.'s findings. The multi-state facilitator's review of AT&T's complaint found the testing requested was unnecessary and refused to require Qwest to include it in its SGAT.

The Hearing Commissioner specifically cited AT&T Minnesota's A.L.J. interim order and declared that it as well as the broader Minnesota systems testing dispute that AT&T raises failed to demonstrate any pattern of anti-behavior in Colorado and that is foreseeable to take place in the future or implicate welfare enhancement.

This was in the Volume 7 decision, again.

MS. QUINTANA: I agree with the hearing commissioner decision that this workshop is insufficient to demonstrate a pattern of past abuse that is either insufficient or mitigated by the resolutions of disputed issues in the checklist workshops, or so severe as to give reason to doubt the ability of the CPAP to curtail this issue, or otherwise to, so significantly, to call in the question of public interest. In addition, the issue of adequate testing will be addressed as part of the SATE and interop CMP discussion.

COMMISSIONER DYER: I would agree with the hearing commissioner on this as well.

CHAIRMAN GIFFORD: I think your discussion was thorough, Ms. Quintana. I agree. The other issue was, again, what's the 271 remedy. Problem arises again. It's never offered as anything but a road block.

MS. QUINTANA: The next issue is a petition to intervene and motion to reopen issues filed by TouchAmerica on June 4th, 2002. In this petition, TouchAmerica requests that this commission reopen the 271 proceedings and stay any decision to the FCC at this time. TouchAmerica currently has a complaint pending before the FCC regarding Qwest's selling of lit

fiber IRUs to Qwest, the BOC. That is Qwest, the affiliate, selling to Qwest, the BOC. TouchAmerica does not want to litigate these issues here, but, rather, is introducing important factual information that should be considered with the competitive checklist and public interest.

The question goes directly to future compliance with Section 271 and 272 rules. TouchAmerica claims that this is the fourth in a series of 271/272 violations for Qwest. And this one is still ongoing. QCC offers the lit fiber IRUs to Qwest, the BOC, but other carriers are unable to obtain the same services at the same rates, terms and conditions. If the IRUs are found to be UNEs by the FCC, as Qwest claims, then this commission should determine that it has a duty under 271(c)(2)(b)(2) to ensure nondiscriminatory access and pricing.

Qwest did file a response early this week to this petition to intervene and motion to reopen issues by TouchAmerica. As the first response, Qwest states that the petition to intervene should be denied as late-filed and not demonstrating good cause for the late intervention. And then, Qwest does also respond to some of the merits of TouchAmerica's complaint, but basically, states that this issue is before the FCC and

should be handled in that forum, and instead of this commission taking up the merits.

I believe that this is one of these cases that Chairman Gifford mentioned earlier of too little too late. TouchAmerica has known about this IRU situation for at least a year now, if not longer. And they state in their complaint that they did not file in this proceeding before now because it did not want to be premature in interjecting these points in the 271 proceedings. The FCC will be deciding the merits of the IRU complaint. The full facts of that complaint are not at issue here, nor were they even presented. The FCC will make the decision on the merits and on the weight that this incident is due with respect to 271 approval.

Therefore, I recommend that the commission grant the intervention simply because it's --

CHAIRMAN GIFFORD: We let anybody in here.

MS. QUINTANA: That's about it. But, deny the motion to reopen and deny any type of ruling on merits of the complaint.

COMMISSIONER DYER: I would agree with the recommendation.

CHAIRMAN GIFFORD: I agree as well. Given our very permissive intervention standards, particularly in this docket, we'll grant that. I don't think, in terms of the substance of a pleading, that anything has been posed more nakedly for the purpose of delay, and with no good cause shown. Again, were this a regular commission Colorado APA administrative docket, I would seriously discuss sanctions for this, because this -- there was nothing about this that couldn't have been brought up earlier, and there was no reason this didn't show up for any other reason than to try and cause delays.

Again, given the peculiar nature of this docket, we won't do that, but, this was rather over the top, and it was what it was submitted for.

MS. QUINTANA: Thank you. And with that, commissioners, that was the last discrete public interest issue. And I would like to make an overall recommendation, now, on the public interest recommendation.

Advisory staff would recommend that you find that Qwest has met the public interest standard, with the exception of the previous decision by this commission on the New Edge issue. I think that you should make your recommendation contingent on Qwest

making the order changes to the SGAT prior to filing with the FCC.

COMMISSIONER DYER: I would agree with that. Once again, good work, staff.

MS. QUINTANA: Thank you.

CHAIRMAN GIFFORD: Yes. I agree with that overall recommendation. The minor modification of the SGAT, I do think, in total, as Dr. Langland led off, that our findings on the public interest are sound and that there's some interesting things in this, but it would be -- I think it has clearly met the public interest standard here, in our opinion. That is Act 1.

MS. QUINTANA: That is Act 1.

CHAIRMAN GIFFORD: Let's take five minutes.

MS. QUINTANA: Thank you.

CHAIRMAN GIFFORD: And proceed to Act 2.

(Recess.)

CHAIRMAN GIFFORD: Well, let's continue along with our deliberations here. Next, Ms. Quintana.

MS. QUINTANA: Yes, sir.

CHAIRMAN GIFFORD: You get to be the master of ceremonies here.

MS. QUINTANA: For better or worse, I think.

CHAIRMAN GIFFORD: Or the mistress of ceremonies, as the case may be.

MS. QUINTANA: Master is fine, Chairperson Gifford.

Okay. Moving along, we would like to now turn to certain issues remaining with the SGAT language itself. These were brought up in AT&T's response to Qwest's motion seeking approval of the SGAT, which it filed on May 6th, 2002. The first of the AT&T issues is the presence of interim prices in Exhibit A to Qwest's SGAT. According to AT&T, Qwest had added roughly 230 new rates to the Exhibit A that are neither just or reasonable, nor consistent with the commission's 271 order. Not only does this fly in the face of the orders of this commission, but also creates an Exhibit A that this commission cannot possibly approve under the law, even on an interim basis.

AT&T provided its own Attachment A to the response that indicates all of the new rate proposals that Qwest has unilaterally added to the SGAT. The commission should order Qwest to set these rates aside, or alternatively, simply not approve Qwest's SGAT. During the public interest workshop, on May 7th through the 9th of 2002, Qwest responded through the testimony of Mr. Paul McDaniel and Ms. Kris Ciccolo. They stated

on the record of that workshop that the interim prices in Exhibit A fall into one of two categories, either Qwest, one, borrowed a rate from a similar product or service, or two, took the Qwest cost studies and applied the commission's adjustments ordered in Phase 1 of this proceeding. Qwest states that all of these are -- all of these new interim rates are low volume or no-volume products and services. And that the rate will be adjudicated in Phase 2.

Staff agrees with Qwest's approach to these rates. Qwest's approach seems to -- these interim rates seem to be reasonable. I believe we all knew, from the start, in 577, that there would be a Phase 2. And that those rates would be included, but not yet litigated, until Phase 2 approaches.

If the Qwest interim rates are found to be completely out of line in the Phase 2 proceeding then if the commission so chooses at that time, it can order some type of true-up. And also you did just approve these rates in Exhibit A in response to Mr. Wendling's presentation. So, you know, there's that.

COMMISSIONER DYER: I will approve it again.

MS. QUINTANA: Thank you.

CHAIRMAN GIFFORD: Yeah. They are really TELRIC compliant. And I think the method that was used to derive those interim rates we did find was consistent with TELRIC principles. Certainly we can revisit those in Phase 2, and before we litigate them. But the input to the cost models that were made, that derived the interim rates, were consistent with our other TELRIC decisions.

MS. QUINTANA: Okay. The next AT&T issue deals with the ISP or Internet Service Provider traffic in Sections 7.3.1.1.3.1, and 7.3.2.2.1 of the SGAT.

AT&T states that Qwest has modified a sentence in these sections that now clearly states that ISP-bound traffic is interstate in nature. AT&T states the FCC ISP order has been out for over a year now, and Qwest is just now making these changes. It requires more substantiation than just a reference to the FCC order. Qwest should be required to provide legal argument to support the interpretation of the FCC ISP order, then CLECs would be in a position to respond.

Qwest did respond to this issue in, again, the public interest, May 7th through 9th workshop. In the transcript, Qwest stated, in response to AT&T's concerns regarding these issues that deal with the ISP traffic, that the Internet-bound traffic

is jurisdictionally interstate, and in nature, and thus not subject to Section 251(b) 5. Qwest cited to CC Docket No. 99-68, 14 FCC Record 3689, 1999 declaratory ruling on intercarrier compensation and PRM, and also the order on remand, April 27th, 2001, at paragraphs 21 and 52. Qwest states that this language is also consistent with this commission's findings in the Sprint, ICG and Level 3 arbitrations.

Ms. Jennings-Fader would like to say something about this.

CHAIRMAN GIFFORD: There may be a case that affects this.

MS. JENNINGS-FADER: There could be, and I thought, perhaps, I might mention it, subsequent to the -- or I think fully discussed during the course of the commission's en banc workshops on public interest, the D.C. circuit had recently issued a decision in which it remanded to the Federal Communications Commission, for a second time, the FCC's decision on the nature of ISP-bound traffic.

It's important, I believe, for this commission's consideration of this issue to note that the FCC did not vacate the -- excuse me, the D.C. circuit did not vacate the FCC's decision. It simply remanded the case, again, to the FCC for further

development of the FCC's legal rationale for the decision with respect to the ISP-bound traffic. Further, the D.C. circuit does rather pointedly direct the FCC to a provision of the statute, which the FCC had not relied on, but which the D.C. circuit apparently believes may be of some support -- or some interest to the FCC in supporting its decision on the ISP-bound traffic and its nature.

So, with that being said, I believe that consistent with my earlier discussion on the prior issue, that the commission would be best served by proceeding as if the FCC's decision were still in effect. And, furthermore, I note that the commission's decisions on this issue have not been bound by or directly linked to any FCC decision on this issue. And I believe that the commission should rely on its own decisions, which happily are coincident with the FCC's rulings in this area, so, thank you.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: I agree with that.

CHAIRMAN GIFFORD: I think you are right, Ms. Jennings-Fader. And the interstate or intrastate nature of ISP-bound traffic, I suppose, still is up in the air, but as you said, the D.C. circuit rather pointedly, perhaps, on a silver platter, appears to

have handed the FCC a rationale, a legal rationale to explore, and in any event, I don't think that it, either way the provision read, if it didn't say anything, I don't think it would be fatal or dispositive to the 271 applications. So, I agree that it's acceptable.

MS. QUINTANA: Thank you. The next SGAT issued raised by AT&T is for the Change Management Process Section 12.2.6. AT&T states that this section does not contain language that has been agreed to thus far by Qwest and the CLECs. In the CMP redesign group. Qwest has agreed to draft language that it would include as an explanation that Exhibit G, which is the CMP document, as modified, will be incorporated into the SGAT without the need for amendments.

In the public interest hearing, Qwest asserted that the language in Section 12.2.6, in the April 29th SGAT version, is 271 compliant, and that it did not believe additional language is needed. However, Qwest does acknowledge that the language is being reworked in the CMP redesign group, and that consensus language can be added at some later date, and does not have to be included in the FCC filing for the FCC filing of the SGAT. New language has been agreed to, now, by the CMP redesign group. This language now

includes a sentence that reads, "Notwithstanding any other provision in this agreement, the CMP document attached as Exhibit G will be modified pursuant to the terms of Exhibit G or the procedures of the redesign process and incorporated as part of the SGAT without requiring the execution or filing of any amendment to this agreement."

This language was very important to the CLEC in the continuation of modifications to the CMP. Based on that, and to hopefully curtail any problems in the future, if there are additional changes made to the CMP document, I would recommend that this language be included in the SGAT at this time rather than waiting until some time later in the future, and should be the -- the change should be made prior to Qwest filing with the FCC.

COMMISSIONER DYER: I would agree.

CHAIRMAN GIFFORD: I agree.

MS. QUINTANA: Okay. The next AT&T SGAT issue deals with access to loop qual information. In Section 9.2.2.8, AT&T states that Qwest's revision to this section is inconsistent with FCC orders, ambiguous, and Qwest has not proven that this proposal is at parity with access to loop information available to any Qwest employee.

Qwest does not describe this new manual lookup process that this language proposes or state what information will be reviewed in this manual procedure. It should further be clarified, Qwest proposes that the back office information be put into the database rather than given directly to the requesting CLEC. This causes the filtering of information and also delay in receiving of the information. In addition, the Qwest language states that it will update the database within 48 hours of the request, unless it takes longer than 48 hours, in which case, Qwest will notify the CLEC. AT&T states that it should be a standard interval of 48 hours.

Qwest should change the language as follows, according to AT&T: "If the loop makeup information for a particular facility is not contained in the loop qualification tools, if the loop qualification tool returns unclear or incomplete information, or if the CLEC questions the accuracy of the information in the loop qualification tool, then the CLEC may request that Qwest perform a manual review of the company's records, back office systems, databases where loop information resides. Qwest will provide the CLEC the loop information identified during the manual review within 48 hours of Qwest's receipt of

the CLEC request for manual review. After the completion of the investigation, Qwest will load the information into the LFACs database." Qwest stated, on the record, during the public interest hearing, that this is voluntary, CLEC-friendly language that it added to the SGAT.

AT&T's first concern with this language, or our first concern is surrounding process issues with the language itself. The language allows the CLECs to request a manual lookup for loop information in an unlikely event that information is not contained in the tools that Qwest currently offers or if the information is returned as unclear. The manual review is uploaded to the database within 48 hours. Qwest states that they are certainly amenable to reviewing AT&T's language on this issue, but they think that this -- that the Qwest language captures Qwest's legal commitment, and no change has to be made for 271 compliance.

I would recommend, basically, a compromise between the AT&T and Qwest language. I think AT&T makes some valid points about the need for clarification on this manual lookup process. I also believe that AT&T makes a valid point for a standard 48 hours interval rather than this more squishy language

of we'll try and do it in 48 hours, but if we can't, we'll let you know when we'll have it.

And, so, the language that I would recommend is as follows: "If the loop makeup information for a particular facility is not contained in the loop qualification tools, if the loop qualification tools return unclear or incomplete information, or if the CLEC questions the accuracy of the information in the loop qualification tools, then CLEC may request that Qwest perform a manual lookup of the company's records, back office systems and databases where loop information resides. Qwest will provide the CLEC the loop information identified during the manual lookup within 48 hours of Qwest's receipt of the CLECs request for the manual lookup. After the completion of the investigation, Qwest will load the information into the LFACs database. In the event the manual lookup will take longer than 48 hours, Qwest will notify the CLEC within 48 hours of the expected date upon which Qwest can provide the manual loop makeup information."

So, this is actually different than what I said before. The compromise here on the 48 hours time frame was that Qwest would still have the ability to take a longer period of time and notify the CLEC;

however, instead of uploading the information to the database, and then notifying the CLEC that the information is there, and they should do another lookup, that the information should be provided directly to the CLEC, therefore, cutting down the time that way. So, I am sorry for the confusion.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: I would agree with that recommended language.

CHAIRMAN GIFFORD: I would also recommend that language.

MS. QUINTANA: Along with this same issue is kind of the corollary, the audit of Qwest's back-end systems. AT&T states that the Washington commission has ordered and Arizona ALJ has recommended that Qwest be required to allow CLECs to audit Qwest's back office records, systems and databases in order to ensure that CLECs are obtaining the same access to loop information as any Qwest employee. Qwest should be required to import the Washington ordered SGAT audit language into the Colorado SGAT as changed by AT&T with certain modifications from AT&T.

AT&T proposes the following audit language be added to the end of Section 9.2.2.8: "CLECs shall have the ability to audit Qwest's company

records, back office systems and databases to determine whether Qwest is providing CLECs the same access to loop and loop plant information that is available to any Qwest employee. Such audit will be in addition to the audit rights contemplated by Section 18 of this agreement, but processes for the audit shall be consistent with the processes set forth in Section 18."

Qwest responded to this AT&T issue again in the public interest workshop. AT&T states that -- excuse me. Qwest states that AT&T claims that Qwest should have incorporated a provision ordered in Washington, but rejected in Colorado, regarding the CLECs auditing of Qwest's back office systems. In Decision R01-1141, which is the order on motions to modify the 5A decision, the hearing commissioner stated that KPMG had already audited Qwest's back office systems as part of the Master Test Plan, and had found them to be compliant. The full commission affirmed the hearing commissioner's findings in Decision C02-406, when AT&T again had raised the same issue.

Qwest states that the current SGAT demonstrates Qwest's legal commitment to provide information to the CLECs at parity with the information that Qwest uses internally. I believe that there have been no new issues raised in this AT&T filing. I think

that the full commission has already made its decision on this issue, and that there's no reason to reverse or change that decision.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: Will the CPAP be taking looks at this in the future?

MS. QUINTANA: Excuse me. Just one second.

(Discussion off the record between Ms. Quintana and Ms. Jennings-Fader.)

MS. QUINTANA: Commissioner Dyer, there are no specific provisions in the CPAP for the loop qualification tools themselves. However, in a round-about way, the independent auditor will have the ability, and, in fact, the function of making sure that those back office systems are providing the information necessary for Qwest and the CLECs to have a service at parity. So, it would have to be more of a root cause analysis that the independent auditor would take on either as a result of a CLEC complaint or some other type of finding within the CPAP docket.

COMMISSIONER DYER: Thank you. And I would reaffirm our decision for the third time.

MS. QUINTANA: Thank you.

CHAIRMAN GIFFORD: Agree.

MS. QUINTANA: Okay. Those are all of the remaining SGAT issues. Now, I am not saying that there might not be other recommendations to make changes to the SGAT issues or to the SGAT as a result of other things that we discuss, but those are the issues that the CLECs brought up specific to the SGAT.

I would like to move on -- I think we'll go ahead and do TRAC A now, so that I can regain myself and let Dr. Langland --

CHAIRMAN GIFFORD: We also don't want to keep Langland in a tie too long.

MS. QUINTANA: We'll go to Trac A, please.

COMMISSIONER DYER: Mr. Commissioner, I would like to point out, this is the forth straight day I have worn a necktie in a long year.

CHAIRMAN GIFFORD: Unlike Dr. Langland, you can tolerate it.

DR. LANGLAND: It's rented only to noon, so I will speak rapidly. In order to gain entry into the interLATA market, the act set forth TRAC A and TRAC B. It was one or the other the BOC needed to satisfy. In this matter, it's a TRAC A filing, and under TRAC A, there are four basic criteria. That is the presence of binding interconnection agreements. No. 2, access of

interconnection to competitors by BOC. Competition -- third criterion -- I am sorry, competitors are present in business and in residential markets. And, finally, competitors offering the service exclusively or predominantly over their own facilities.

Very briefly, for each of these, there are, mas or meñas -- I wanted to use that fourth semester Spanish -- between the BOC Qwest and other providers easily satisfied that criteria. Access and interconnection competitors, this has to do with the physical connection and interoperability measure and traffic be exchanged. The FCC imposes no statistics on the amount of traffic, just the connection exists, which it does. There are competitors, other providers present in both the residential and the business market, using one -- or the three entry strategies or provision protocols envisioned by the act, that is, the own facilities, Unbundled Network Elements, or resale. All those are on the ground now.

Finally, the FCC, as we talked about, under the public interest, very early on, does not have a market share test, per se. Most recently, it was articulated that -- the notion of more than a de minimus presence in those markets. There's not, again, a numerical score attached to de minimus, but the

numbers that have been present in the public interest workshop seem to exceed what is a reasonable interpretation of the de minimis. So that, generally speaking, it appears that the evidence presented, so far, and as analyzed by the hearing commissioner, seemed to indicate that there is reasonable evidence to suggest TRAC A satisfaction.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: I agree that this method meets the test.

CHAIRMAN GIFFORD: Yeah. The criteria under Trac A, as I think you described them, Dr. Langland, are simply to meet, frankly, and I think that they have been met here by ample evidence and even if you were to impose a market share test, as I think Ms. Quintana mentioned, our numbers, depending on whose you believe in the record, but our numbers are certainly better in terms of market penetration than other 271 applications that have been granted. So --

DR. LANGLAND: I think the numbers here, Mr. Chairman, compare favorably to the market share numbers for other applicants in other service territories that have been approved by the FCC. So, that even if one were to take a pessimistic view of the calculations performed by Qwest, and whittle away at

them in a variety of ways, even after that, the numbers still meet or exceed that which has already been approved.

CHAIRMAN GIFFORD: Now, so, I think we can fairly confidently say the Trac A is met.

DR. LANGLAND: I think so. That is staff's recommendation.

CHAIRMAN GIFFORD: Okay.

MS. QUINTANA: Okay. Moving onto Section 272 requirements. I believe that we are left with two remaining issues from Section 272 concerns. In the public interest hearing, on behalf of AT&T, Mr. Gregg Kopta presented his company's positions on their concerns remaining with Section 272. The first issue is that of maintaining separate employees for QCC, the long distance affiliate, and Qwest the BOC. Qwest responded to this concern by stating that it no longer allows the loan of employees, and that it has put in place a stringent process for the transfer of employees. The employees must actually be terminated and rehired, and they must also execute a confidentiality agreement upon termination.

Qwest states that the FCC has made no restrictions on the transfer of employees from the BOC to the affiliate or from the affiliate to the BOC.

Section 272(b)(3) says nothing about such restriction. In addition, Qwest finds it ironic that AT&T is asking for these additional safeguards when QCC has zero market share, but AT&T, who has the largest market share in long distance, could hire BOC employees with no restrictions.

I believe that we pretty much have to fall back onto the FCC on this issue. To date, there has been nothing said, in any of the 271 orders, that places restrictions on the hiring of employees between the affiliate and BOC. Qwest makes valid points about AT&T, or any long distance provider, hiring former BOC employees. Qwest seems to have put the appropriate safeguards in place that should prevent the sharing of confidential information. And, so, I would recommend that AT&T's concern on this issue -- that there be nothing changed based on AT&T's concern.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree.

MS. QUINTANA: And AT&T's second 272 issue is one for special access reporting. In his presentation, Mr. Kopta requests that this commission order Qwest to report its special access provisioning at a disaggregated level so as to compare the unaffiliated companies with the 272 affiliates, and the

level of quality of service that they are receiving. AT&T is not asking the commission to reexamine the PAP provisions. Rather, to order the reporting similar to what apparently the Washington commission has already ordered in its 31st supplemental order.

Qwest stated in the workshops that the reports that the Washington commission ordered will be available on a public Website for anyone interested to view. The FCC has said that this information needs only be provided after 271 approval is given. And until that time, Qwest states there is no need for additional reporting. This information supplied to the commission for the PAP, which is special access reporting in lieu of UNEs, coupled with the information that Qwest will be providing on this Website report, after receiving 271 approval, should be sufficient for now. If this commission determines through one or the other reports that there seems to be a problem with the service quality levels given to the various entities, then the commission has left open the possibility of further investigation and perhaps penalty assignment in the CPAP docket.

So I think that, with the two separate reports and the ability to do more in the PAP in the future, if the need arises, that this concern is

covered.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: I know, Mr. Chairman, you probably need some more paper flowing into your office, since you cleaned it out now.

MS. QUINTANA: We all do, right?

COMMISSIONER DYER: I would agree with your recommendation.

CHAIRMAN GIFFORD: I think the special access issues are taken care of under the CPAP, and I don't necessarily see a lever under Section 272 that would cause us to require it, and I think that's the last 272 issue brought to the full commission.

MS. QUINTANA: It is. And for an overall recommendation, I would just like to remind the commission of the previous hearing commissioner's decisions on 272, and now the full commissioner's decision on this discrete issue, and I would recommend the full commission find that Qwest has met the requirements of 272.

COMMISSIONER DYER: I would make that -- I agree.

CHAIRMAN GIFFORD: And I would also so recommend to the FCC.

MS. QUINTANA: And with that, I am done

for now. If we can take two minutes to shuffle some paper, and then come back with the ROC OSS test.

CHAIRMAN GIFFORD: We have remaining, just for those playing along at home, the OSS test, CMP --

MS. QUINTANA: Interconnect and then overall everything.

CHAIRMAN GIFFORD: Overall, I am going to bore you to tears with my closing soliloquy.

MS. QUINTANA: Yes, sir.

CHAIRMAN GIFFORD: There's a Shakespearian quality to this whole process.

MS. JENNINGS-FADER: Will you end in the typical rhyming couplet at the end of the act?

CHAIRMAN GIFFORD: I will work on that. Let's take a few minutes.

MS. QUINTANA: Thank you.

(Recess.)

CHAIRMAN GIFFORD: Let's go back on the record of this decision meeting.

And now I believe Ms. Allstot will go through the core of what we did earlier in the week which is the results of the ROC OSS test.

MS. ALLSTOT: That's correct, Commissioner.

The Telecommunications Act of 1996 and other related FCC orders require that Qwest provide just reasonable and nondiscriminatory access to its Operation Support Systems and to provide the documentation and support necessary for CLECs to access and use these systems and to demonstrate that Qwest's systems are operationally ready. This is what the ROC OSS test was designed to establish.

And as you have heard earlier in the week, the ROC OSS test evaluated 711 criteria total. KPMG Consulting concluded that Qwest satisfied 645 of those criteria. There were 11 criteria that were not satisfied, 26 that were unable to determine, and 26 criteria that had no finding because they were tested as diagnostic.

Ms. Quintana will address two of the criteria that were not satisfied and seven of the criteria that were unable to be determined because they are related to Change Management Process. And I will address the remaining.

The reason that we are taking this path is because I believe that it is reasonable where the test itself has not come to a satisfactory finding that this Commission then determined what importance that test criterion was and what it wants to do about it.

And what I'm trying -- I'm going to try and do is to lump some of these together because there are some that are related.

The first grouping deals with jeopardy notices. And you will find them on pages 4, 8, 9, and 17 of your matrix.

Criterion 12-9-1 was a requirement for Qwest to provide jeopardy noises in advance of the due date for resale products and services. That was found unable to determine. 12-9-2 was a requirement for Qwest to provide jeopardy notices in advance of the due date for UNE-P products and that was found unable to determine. 12-9-4, Qwest systems or representatives were required to provide timely jeopardy notices for resale products and services. That was found not satisfied. And 12-9-5, Qwest systems representatives were required to provide timely jeopardy notices for UNE-P. That criterion was found not satisfied.

Now, with regard to jeopardy notices overall, this Commission has already found that those are important and it did so when it included measures in the CPAP for jeopardy notices. And part of the problem that was observed in the testing is that Qwest doesn't issue a lot of jeopardy notices and therefore there wasn't a lot for KPMG to make conclusions on.

What Qwest did provide was commercial experience data that indicated that they have for the most part met the parity standards that are required for the jeopardy notice PIDs and those are specifically for PO-8-A for nondesign services -- that's probably the weakest performance that Qwest has and that they have only met that in the last two months.

PO-9-A was for nondesign services and they did have a good track record for several months now. PO-9-B for UNE-P POTS, they met this for some time now, but they did happen to miss this parity standard in April of this year.

And then PO--- and then this one -- but anyway, the bottom line is that they do have evidence of commercial performance in these areas; so what the test is lacking, we do have in the record that there is commercial performance that establishes that Qwest does provide jeopardy notices. And I believe that the Commission should rely on that to make its finding.

And the other thing that I believe that the Commission should look to is that the CPAP does include measures for jeopardy notices that cover these same -- very same areas that KPMG has found unable to determine and not satisfied.

So if you have no questions I'll make a

recommendation.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: Recommendation?

MS. ALLSTOT: Staff recommends that the Commission find these criteria do not impact the CLECs ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree, as well.

MS. ALLSTOT: The next grouping that I want to deal with deals with human error. And the three criterion --

COMMISSIONER DYER: Do you have a page for that one?

MS. ALLSTOT: -- to deal with our -- page 20, page 31, and page 51. And these criterion are 12-11-4, where KPMG found that was unable to determine that Qwest produced measures of preorder, order performance results for HPC transactions that are consistent with KPMG Consulting produced HPC measures.

12.8-2, KPMG found and unable to determine for procedures for processing electronically submitted non-flow-through orders are defined, documented and followed.

And Criterion 14-1-44, that Qwest produced measures of ordering and provisioning

performance results for HPC transactions are consistent with KPMG Consulting produced HPC measures.

Now in the last few days you have heard a lot of testimony with regards to human error in this arena. One thing that I will note that all the parties tend to agree that perfection should not be expected; that human error is a reality any time that manual processes are used. What they disagree on is how much human error is reasonable and whether additional testing to ensure that the level of human error in Qwest's OSS does not interfere with competition.

Qwest specifically believes that the number of human errors in its manual processes are reasonable. AT&T asserts that Qwest's human error is significant enough to find that the ROC OSS test results as they stand today are fatally flawed and AT&T advocates that additional testing be conducted.

And in looking at these results, I would conclude that the human error uncovered does not suggest to me that the test results are fatally flawed; but I do believe that this Commission probably needs to consider addressing the concern because human error was revealed throughout the testing as being a root cause of several problems most recently revealed towards the end of the test in a retest just prior to ceasing the

transaction testing.

One thing I would note for the Commission is that the steering committee, of which Colorado staff was a member, became concerned with the human error issue back when KPMG issued Observation 3086. And that observation indicated that a number of observations and exceptions are coming back to human error as being the root cause of problems.

Qwest's response to that Observation 3086 offered to track data and report that information to commissions regarding its efforts to control human error. And that somewhat addressed the steering committee's concern, but we wanted additional information on possible performance measures that might be used to track Qwest's effort to control human error and sought that via a change request to the master test plan.

KPMG provided its opinion regarding that and the PID adequacy study which is an exhibit in this -- this current workshop, and that was provided on April 30th. Qwest provided response to that on May 24th. And Qwest commits in its response to develop and present proposals for new performance measures addressing order accuracy when the long-term PID administration process is in place and functioning.

And even though that long-term PID administration process is not in place and functioning, Qwest did, on June 11th, circulate PO-20 which was a proposal for a PID for manual service order accuracy and they circulated that, I believe both to the ROC TAG and to all parties that have indicated interest in participating in the long-term PID administration.

So if you have any questions I would address them now; otherwise, I'll make a recommendation.

COMMISSIONER DYER: No questions.

MS. ALLSTOT: Advisory staff recommends that the Commission address the concerns raised about human error by conditioning any recommendation of approval of an application by Qwest to the FCC for Colorado as follows: to require Qwest to work with interested parties to complete development of a PID similar to its proposed PO-20 that will track manual service order accuracy and do that in such a time frame that PO-20 can be added to the CPAP at the first six-month review.

I would suggest that the Commission find it acceptable that to the extent that the parties come to agreement prior to that six-month review process that that PID be allowed to be added to the CPAP before

we wait for that -- that point in time; and that's fully allowed in Section 18-9 of the CPAP. And Qwest -- I believe the Commission should indicate to Qwest that if they can make that happen that they shall file that through that process.

Now, what I would say is that Qwest hinged its, I guess, offer on a functioning long-term PID administration through -- to the extent that that can happen, that's good. To the extent that that cannot happen, that would not excuse them from making this development of this particular PID take place and to offer to the Commission in that time frame.

The other thing that I would suggest is that initially the standard for this PID would be diagnostic; and then at the second six-month review of the CPAP, a benchmark would be established and PO-20 would be added as a Tier 1-B measure to the CPAP unless parties agree that Qwest's performance does not warrant the addition of such a PID.

And that is my recommendation.

COMMISSIONER DYER: I would agree with that.

CHAIRMAN GIFFORD: Yeah. And there are separate parts to your recommendation, of which I agree to all. It does seem to me right that the human error

problem, though of concern going forward, is not significant enough for 271 purposes to make it fatal to the application, based on the totality of the OSS testing results; but it also is an issue of some concern that does need to be addressed going forward as I think even we got in the workshop this week, as all parties, to a lesser or greater degree, recognize.

Therefore I think prescribing the development in addition of PO-20, a human-error PID, is the assurance that we need going forward that this will be addressed and the -- kind of the mechanics of your recommendation I agree with in whole.

MS. JENNINGS-FADER: If I may ask for one clarification, Commissioner -- Commission, excuse me: As Ms. Allstot noted, Qwest has offered as an exhibit in the most recently completed en banc workshop, its proposed PO-20. I understand staff's recommendation and I hope the Commission's decision to be that a PO-20 should be developed but there is no endorsement of the proposal that Qwest has made; rather that should be -- the PID itself should be developed through the long-term PID administration process.

CHAIRMAN GIFFORD: That's correct.

COMMISSIONER DYER: Yeah.

CHAIRMAN GIFFORD: I think we both meant

that. And to the extent I added any ambiguity, certainly the draft PO-20 can be used as a discussion document, but it should be developed through the negotiating collaborative process that works so well.

MS. JENNINGS-FADER: Thank you, Commissioners.

MS. ALLSTOT: The next group that I would like to address is unbundled dark fibers and EELs which can be found at page 33 on page 39 of your matrix. Criterion 14-1-10 KPMG found was not satisfied for Qwest provisioning unbundled dark fiber by adhering to document and method and procedure tasks. And criterion 14-1-14, KPMG also found that not satisfied for Qwest provisioning he'll circuits by adhering to documented method and procedure tasks.

In the test, KPMG originally observed as many as they could come up with in the real world installations of unbundled dark fiber and EELs; and found some problems with Qwest's documentation and generated some exceptions. And then as time went on the volume of orders for these products was not sufficient such that even though Qwest changed its documentation and its procedures to address KPMG's concern, KPMG could not verify those changes.

And one thing I would point out is that

the CPAP itself does not include at this time any measures for unbundled dark fiber; nor does it contain any measures for EELs. Qwest does report information in the monthly results for both to the extent there is any activity on them.

And one of the things that this Commission has petitioned Qwest to do is to, at the first six-month review, essentially to put EELs on the table for consideration at the CPAP for six-month review.

And I don't know that I have a lot more to say there. I'll open it up for questions if you like.

COMMISSIONER DYER: No questions.

MS. ALLSTOT: This one, while it may be important to CLECs, it suffers from the standpoint of there is no real volume happening here. And it doesn't seem appropriate to expect Qwest to try and make performance happen around something that it cannot make happen when other things that all of the parties agreed with regard to the ROC OSS test was that we wouldn't require fieldwork to be completed to the extent that it would impact other real customer service that Qwest would need to provide. And so it did not seem reasonable to expect that the test would actually

require specific provisioning of this for the Pseudo-CLEC.

So what I would recommend at this point in time that the Commission find that the not satisfied criterions on these criterion does not impact CLECs' ability to use Qwest's OSS Systems.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: Yeah, I think that's certainly right given the volumes here that are not existent in some cases.

MS. ALLSTOT: The next group that I put together is for an indication of parity not met for nondispatch orders, which can be found at page 42 and page 45 of the matrix. The first criterion is 14-1-34, where KPMG had a not satisfied finding for a requirement for Qwest to meet the parity performance requirements for PID OP-4-C installation interval met for business POTS; and the other one is 14-1-36, which also has a finding of not satisfied for Qwest to meet the requirement for parity performance for PID OP-4-C installation interval met for UNE-P services. And once again I would point out to the Commission that --

(Pause.)

MS. ALLSTOT: That's from not sleeping last night.

CHAIRMAN GIFFORD: Tell me about it.

MS. ALLSTOT: -- that the Commission has already found this to be important with regards to parity of business POTS and UNE-P services and that there are measures included in the CPAP for this. And I would point the Commission also to Qwest's actual commercial performance results for OP-4-C for business POTS in which it has met the parity standard for July 2001 through April 2002; and to the performance for UNE-P services, in which it has met the standard for OP-4-C for UNE-P for August 2001 through April 2002. I believe this is strong evidence of commercial performance.

And with that I will open it up for questions.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: No questions.

MS. ALLSTOT: Staff recommends that the Commission find this criterion to not impact the CLECs' ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree.

MS. ALLSTOT: Okay, the next group I call insufficient data ones. There are four of them. They can be found at page 47, page 48, page 49 and page 50

of the matrix. The first one is 14-1-37. KPMG found it unable to determine on the requirement that Qwest meet the parity performance requirement for PID OP 6-A, delayed days business POTS. 14-1-38 is another unable to determine, which is a requirement for Qwest to meet the parity performance requirement for PID OP 6-A for delayed days residential POTS. 14-1-39, is unable to determine on the requirement for Qwest to meet the parity performance requirements for PID OP 6-A on delayed days UNE-P POTS. And the last one is an unable to determine on criterion 14-1-41, Qwest -- for Qwest to meet the parity performance requirements for PID OP 15 interval for pending orders delayed past due date, all products.

Once again -- let me back up.

First what I would point out for 14-1-37 is that Qwest did meet the requirements for the central region which includes Colorado for this criterion. And they have met the parity standard for May 2001 through April 2002 in the commercial performance results. That holds true for the residential, that they have met the standard for May 2001 through April 2002 in its commercial performance results. And the same is true for OP 15, which is 14-1-41.

The Commission has already found these to

be important in that there are measures included in the CPAP and there is also strong commercial evidence of this. And with that I would open this set up for questions.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: Your recommendation, Ms. Allstot?

MS. ALLSTOT: It's the same recommendation, we recommend that the Commission find these criterion do not impact a CLECs' ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree.

It's probably worth a comment here to reiterate the hierarchy of evidence and what's best and second best evidence. And I think it's implicit in your recommendation that the FCC has told us that commercial -- actual commercial experience is the best evidence and testing evidence is second best. So in the situation where we have commercial experience that shows Qwest passing its parity measure, contradicted by test evidence, the commercial experience I think wins. And I think also highlighting what we've said a few times is that on a going-forward basis the existence of these measures in the Performance Assurance Plan with

associated penalties for failure to meet these performance standards gives us some measure of comfort that on a going-forward basis that the market will remain open to competition for these -- at least as to these measures.

MS. ALLSTOT: Yes.

The next one I would like to address is the MNR benchmark that's not met for peak volume testing. This is found at page 53 of the matrix. And KPMG found a not satisfied for the requirement to modify trouble report transactions and the specific requirement they be processed within the guidelines established by the ROC TAG benchmark. And Qwest failed part of this and because of that there is a not satisfied on all of it. The benchmark was set at 26; and Qwest, on a normal peak day, performed at 39. And that was not satisfactory.

But -- and I don't have a lot to say about this; but what Qwest did in response to this, rather than allow for a retest, was to perform its own I guess test for lack of better words; and Ms. Notarianni explained yesterday why they did that because they were searching for the root cause of why they had not met the standard that was supposed to have been met for the ROC TAG, before they went down the

road to try to correct a bunch of things to improve their systems and they could not come up with anything.

So instead they reported their results of their efforts and they decided not to allow this to go through retest.

But my recollection, what we heard in the workshop, was that none of the CLECs indicated that this particular not-satisfied criterion to be a fatal flaw in terms of accepting the test.

And with that I would open it up for questions.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: No questions.

MS. ALLSTOT: Okay, for this one staff recommends that the Commission find that this criterion does not impact a CLEC's ability to use Qwest's OSS System.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree.

MS. ALLSTOT: The next group deals with close-out codes and they are found at page 59 and page 65 of the matrix. The first one deals with criterion 18-6-1, which KMC found a not satisfied on close-out codes for out-of-service and service-affecting wholesale UNE-P, resale and Centrex 21 troubles

indicated in Qwest's systems and that may or may not require the dispatch of a technician are consistent with the troubles placed on the line.

And the other one is 18-6-3, in which there was an unable to determine placed on close-out codes for out-of-service and service-affecting wholesale DS1 and higher bit rate trouble indicated in Qwest's systems are consistent with troubles placed on the line that may not require the dispatch of a technician.

Essentially there were problems with technicians properly placing codes in trouble tickets and that was uncovered. And my recollection of what we heard was CLECs are concerned because essentially this could have an impact on Qwest's ability to do a program maintenance to keep their systems adequate. Qwest maintains that these codes are not relevant to CLECs, that it's information that they use internal to themselves and that it really doesn't provide the CLEC any -- any relevant information.

My other recollection on this is similar to the last one in that at the workshop none of the CLECs indicated that this would be considered a fatal flaw for the test. So with that I would open it up for questions.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: Your recommendation?

MS. ALLSTOT: Staff recommends that the Commission find this criteria -- these criteria do not impact the CLECs' ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree, as well.

MS. ALLSTOT: The next one stands by itself; and it's one I classified as a trouble -- troubles that are not successfully repaired. KPMG found a not satisfied in criterion 18-7-1 which is the out-of-service and service-affecting wholesale UNE-P resale and Centrex 21 troubles that may not require the dispatch of a technician are successfully repaired.

And KPMG did specifically plant troubles in Qwest's system and then they looked at how Qwest responded to those troubles to determine if they did so appropriately and they found that that only occurred 92 percent of the time; and they had used their professional judgment to establish a benchmark of 95 percent.

What Qwest did in response to this, rather than allow for a retest, was point back to the results for PID MR-7 which deals with repeat trouble reports to indicate that they have satisfactorily met

the requirements of MR-7 and that they believe that KPMG had erred when they set up this test and should have set it up more to cater to the PID MR-7 and not in the manner that KPMG had done that.

But KPMG of course was the tester and that was their decision. And now we have to make a decision as to whether that is material or not.

Okay, one thing I would point out is that this Commission has already found this stuff important by including measures in the CPAP. And I think in this case, because it did not seem reasonable to send this back for retest, the Commission needs probably to look at the 92 percent result from the actual test and take it -- and also take into consideration the MR-7 results, and that Qwest has met its MR-7 requirements for several months now.

And with that I guess I would open it up for questions.

COMMISSIONER DYER: No questions.

MS. ALLSTOT: Staff recommends that the Commission find this criterion to not impact the CLECs' ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I believe that is right.

MS. ALLSTOT: Have I put you all to sleep yet?

CHAIRMAN GIFFORD: No, that happened earlier this week.

COMMISSIONER DYER: Which presentation in particular, Mr. Chairman?

CHAIRMAN GIFFORD: They were all excellent.

MS. ALLSTOT: The next category I like a lot: I categorize it as no events to observe, and they deal with five criteria.

The first one found at page 69, the second at page 70, and then page 82, page 83, and page 85. The first one of these is criterion 19.6-1-17, where KPMG found an unable to determine on DUF -- whether DUF is corrected and returned according to a defined schedule.

The second one is an unable to determine on 19.6-1-19, where CLECs' ability to readily obtain status on DUF return requests -- excuse me -- the next one deals with Criterion 22-1-10, which is an unable to determine on defined processes for NDR implementations that are adhered to.

Criterion 24.3-9 there was an unable to determine on customer calls or return per

documented/stated intervals. And the last one, there is an unable to determine on 24.10-3-4 which is training of representatives as defined documented and followed.

Now, specifically with the DUF, what KPMG found is that CLECs were not using this process at all and so there was nothing to observe. And I would similarly note that CLECs did not file comments on any one of these; so I would essentially sum up from that that these are probably of lesser importance to them or they would have been in here talking to us.

But I believe that on all of these essentially KPMG's bottom line is that there was just nothing to observe in these areas and therefore they were unable to determine whether or not Qwest was doing okay.

And with that I'll open it up for questions.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: No questions.

MS. ALLSTOT: And on all of these staff recommends that the Commission find them to not impact a CLEC's ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree, as well.

MS. ALLSTOT: Okay, I have one more set in this group and then we have much more to do.

The last group I titled bill production issues. And they are found at page 71, page 74, page 78 and page 80 of the matrix.

The first is 20.7-1-3, which was an unable to determine on cycle balancing procedures exist to identify and resolve out of balance conditions.

The second is 20.7-1-4, unable to determine on, the process includes reasonable ability checks to identify errors not susceptible to predetermined balancing procedures.

The third one is 20.7-1-5, which is an unable to determine on, process includes procedures to it ensure that payments adjustments are applied.

And the last one is an unable to determine on 20.7-1-9, the process includes procedures to ensure that bill retention requirements are operationally satisfied.

Now, a couple of these KPMG points out that the reason that they found an unable to determine was because they deal with automated systems and they have no way of truly poking through these automated systems to figure out if they met the criterion.

And specifically 20.7-1-4 seems to be a

timing issue in that there was no way to follow out time-line wise the end point of that. The rest of the process looked okay.

That seems to me -- oh, my most favorite is the deal with the bill retention requirement of six years. And thank God this test has not gone on for six years. So that one has been met.

MS. JENNINGS-FADER: Or the 20-year period, right?

MS. ALLSTOT: So with that I would open it up to questions.

COMMISSIONER DYER: Absolutely no questions.

CHAIRMAN GIFFORD: No questions.

MS. ALLSTOT: I have the same recommendation on these in that the Commission find that these criteria do not impact a CLEC's ability to use Qwest's OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I would so find.

MS. ALLSTOT: Okay. What I would like to deal with next are the diagnostic PIDs. And this will go much faster. There were 26 of them but we are not going to talk about all 26.

The ones that I believe that the CLECs

pointed us to that carry more weight deal with Test 13. Test 13 dealt with order flow-through evaluation, and I believe there was only one criterion that they actually had a finding on; the rest were all diagnostic, but they all tied back to the PO-2-A and PO-2-B PID measures. Initially when the test was started, PO-2-A and PO-2-B did not have benchmarks set around them, and so KPMG did what it agreed to do and it treated them as diagnostic the entire way through.

Colorado, in its CPAP proceeding, did put benchmarks around these; did include them in the CPAP and put benchmarks around them. And that was the first time that benchmarks were associated with them. Subsequent to that, the TAG itself added benchmarks. And although these are still being tracked, I believe, as diagnostic, I believe -- my recollection in looking at the actual performance results is that the benchmarks -- maybe they are lined -- some of these -- but what has happened is in very recent months Qwest's performance in this area has changed dramatically and is meeting up with those benchmarks. And while they are important -- well, let me back up. They are important. We have dealt with them by including them in the CPAP, which hopefully will acknowledge the parties' concerns that the stuff wasn't specifically --

have a finding within the test itself.

I would open it up for questions.

CHAIRMAN GIFFORD: Questions?

COMMISSIONER DYER: No.

MS. ALLSTOT: On that I would recommend that the Commission essentially -- I can think of a recommendation of this -- accept the diagnostic measures for what they are in the test.

COMMISSIONER DYER: I would agree.

CHAIRMAN GIFFORD: I think that's pretty much all we can do, given, I think we if I should pretty hard for answers as to what if anything to do and we probably did get some good information; but there is probably a reason those ended up being diagnostic and we found that out.

MS. ALLSTOT: The next thing I would like to deal with was there is a portion of AT&T's comments. One of the things this Commission did was essentially ask parties if they believed there were any findings in the test that were satisfied that were -- that those satisfieds were not warranted; and I believe that somewhat the conclusion that AT&T has offered in its comments on the final report, in regards to billing, is indicates that KPMG Consulting's evaluation of BOF returns production and distribution process failed to

identify serious and critical deficiencies in Qwest's DUF processes. And this deals with a handful of the 19.6 test measures.

And it seems like AT&T's criticism is that while this was tested until it passed, that still wasn't enough because there was still some things that were left wanting; and that it would recommend that additional testing be done to ensure that Qwest now in fact can consistently do all of these.

With that I would open it up for questions.

COMMISSIONER DYER: No questions.

CHAIRMAN GIFFORD: No questions.

MS. ALLSTOT: My recommendation is that the Commission not require any further retesting on those matters.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree, as well.

MS. ALLSTOT: Okay.

The next item on my pile is what I call CLEC participation, which deals with the secret agreements. And as you recall in the last workshop there was an exhibit and then an updated exhibit that -- in which KPMG disclosed which tests included activity for CLECs that had been identified as having

secret agreements. And KPMG only did that as a disclosure they make no inference as to what that might mean as to the test results; they just plain provided that information. They did that on their own. And they did it because the matter was getting a lot of press and they felt that before the test was over and before the follow-out proceedings were over that parties would raise this as an issue.

What we heard in the last few days was that -- I believe what we heard was that CLECs believe that we should step back now, take some time, not make a recommendation with regards to Qwest's 271; and gather up CLEC data and try and make a determination if there was any effect on the results of the OSS test.

And I would have to say with regards to that is that, one, it would be a huge effort and I don't know that we could even begin to project what the time frame would be around it. But the one thing that I do not believe warrants going down that path at least at this point is that CLECs were advocating that because they claimed they only have access to their own results; they don't know what other CLEC results look like to know, if they are going treated the same or differently.

But what a CLEC does know for itself if

it takes the time to do it is how its own results compare to the CLEC aggregate and the CLEC aggregate are public information. And would have expected if they thought this truly truly warranted additional time, they would have gone through that exercise to the extent that they could have pointed something out to the Commission that would have established that what they are seeing truly in fact suggests that there is different treatment happening; and that that potential would have impacted the ROC OSS test results.

So with that I would open it up to discussion.

COMMISSIONER DYER: No discussion for me. That makes sense.

CHAIRMAN GIFFORD: No, I think your analysis seems right on.

Your recommendation?

MS. ALLSTOT: My recommendation is that for purposes of the ROC OSS test that the Commission not require anything along these lines with regards to trying to determine the impact if any.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: Yeah, I don't think the case was sufficiently made that the so-called, you know, unfiled agreements corrupted the test data. I

think your analysis of the incentives to come forward if there were great disparities in data is right on, Ms. Allstot. And the impact on the integrity of the test I think was negligible if any.

MS. ALLSTOT: The next thing on my list is data reconciliation. As you recall, way back last -- I don't know, probably was last fall sometime, we start down the path of data reconciliation and at that point in time I think we all believed that we were looking at 45 to 60 days of effort. What did happen is that Liberty ended up performing the data reconciliation and they issued separate reports for Arizona, Colorado, Nebraska, Washington, Oregon, Minnesota and Utah -- I think that's the full set of them. And they did that over, it looks like, about seven months -- six or seven months.

We did hold proceedings here in Colorado on February 5th, and we had another day of proceeding on February 14th, and then we touched on it again yesterday. And I don't have a whole lot to say. I think all of the parties positions are understood with regards to where we sit on the data reconciliation efforts; but what I will point you to in Liberty's report, it concludes that it believes that Qwest's performance reporting accurately and reliably reports

Qwest's actual performance. And staff agrees with Liberty's conclusion. And we are recommending at this point in time that the Commission take no action on this.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: Yeah, we did spend plenty of time on data reconciliation. But I think in the end we hired Liberty to perform that audit for us and we didn't get any evidence that would lead us not to believe in the conclusions of that audit.

There was a lot of discussion in a couple of workshops, particularly the first data reconciliation workshop, about potential problems or inconsistencies; but I'm not sure what we could do with that except kind of shrug and again end up relying on the independent evaluation of Liberty as the ROC's auditor.

MS. ALSTOTT: The next thing I would like to point out, that during the workshop, parties were asked and given an opportunity to indicate if they believed anything was missing from the test, and no party stated anything to this Commission that they believed was missing on the test itself.

CHAIRMAN GIFFORD: Probably just note that.

MS. ALLSTOT: I think with that, I think I've covered everything and I'm ready to make an overall recommendation.

CHAIRMAN GIFFORD: Please. Go forward.

MS. ALLSTOT: What I would say is that through the ROC OSS test, Qwest has demonstrated that its operating support systems are operationally ready except for the potential for human error. Taking into consideration the Commission's earlier decision to require development of a PID PO-20 for manual service order accuracy, advisory staff recommends that the ROC OSS test be found as sufficient for Colorado purposes.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree with the whole of that recommendation. I think that this was, as Commissioner Rowe in Montana has stated again and

again, among the most exacting and rigorous OSS tests ever done. I don't think anyone in going into this expected that it would be a complete pass. In fact, every 271 application but one had unresolved Os and Es at the end of the test, and I think after our examination this week through the workshops and through comments before that, that a general finding that none of the open observation and exceptions are fatal to a 271 application proper. With the condition that we work on PO-20 PID, get it in, I think we can get these test results as indicative of the functionality of Qwest's OSS systems.

MS. QUINTANA: And I have nothing further.

CHAIRMAN GIFFORD: Where I think we are know, we've got CMP left?

MS. QUINTANA: Yes, and then a wrap-up.

CHAIRMAN GIFFORD: I would just as soon take five now and go forward. We can maybe it done by 12:30, one-ish.

MS. QUINTANA: We will endeavor.

(Recess taken.)

CHAIRMAN GIFFORD: Let's resume and keep this going through the lunch hour, hopefully not

too far.

Our next topic is Change Management which emerged kind of as a thorny topic.

Ms. Quintana, I don't know who knows any more about it than you, so . . .

MS. QUINTANA: Thank you. We'll see.

How I'd like to proceed, if it pleases the Commission, there are seven unable to determine criteria within the can KPMG OSS test on Change Management and two not satisfied that relate to interface testing. What I would like to do is go through each of those criterion first, give a recommendation on each of those, and then circle around and discuss, as we have before, the FCC criteria for Change Management, and my recommendations on each of those criteria.

CHAIRMAN GIFFORD: Sounds good.

MS. QUINTANA: The first test criterion that resulted in an unable to determine finding by KPMG is criterion 23-1-7, and this relates to exception 3110.

I should have prefaced my statements that KPMG changed its findings from the final report to the final final report, separated CMP into systems and product and process. So the criterion that begins

with 23-1 are related to the systems CMP and the criterion that begin with 23-2 are related to the product and process. I will address the systems ones first.

23-1-7 is a systems criterion. This description reads, "Procedures and systems are in place to track information such as descriptions of proposed changes, key notification dates, and changed status."

Again, this is on the systems side of the house, so these notifications relate to releases of various parties of the OSS systems, whether they're IMA releases or SATE releases or those systems releases.

KPMG found that they were not able to validate the procedures and systems for tracking the release documentation requirements. This was partly a timing problem. They did state that Qwest provided KPMG with documents describing Qwest's internal procedures that individual software releases used to comply with the CMP requirements. However, Qwest confirms that the Change Management staff did not at that time have a central mechanism to track and ensure that documentation release intervals for all upcoming software releases were followed. Although the

documentation provided sufficient evidence that tracking procedures exist, the information was not sufficient for KPMG consulting to determine that Qwest adheres to the documentation process.

In response to exception 3110, the CLECs' comments on this were that it is premature to accept Qwest's CMP as compliant until such time as KPMG and Liberty through PID PO-16 have sufficiently observed actual present compliance. PO-16 is the PID that demonstrates timely release notifications.

Qwest in its comments responds that it has an overall 98 percent compliance rate on its CMP obligations. More to the point, Qwest has adhered to a higher point of the OSS interface release documentation interval notification milestones it has reached thus far. Qwest's record of compliance coupled with its success in adhering to the very notification intervals that are the subject of this exception, 3110, demonstrated that Qwest's tracking and verification procedures are adequate.

In the CPAP, we have incorporated PO-16 that covers, as I stated, the timeliness of the initial release notifications and also subsequent release notifications. The CPAP has 100 percent standard as opposed to the PID which has 92.5 percent

standard as defined. But our CPAP sets it at 100 percent with penalties associated at $200 per day for late initial release notifications and $50 per day for subsequent release notifications each day they're late. These go to the tier two special fund.

Because of the high standard in the CPAP--you can't go any higher than 100 percent requirement--coupled with the fact that Qwest is showing adherence to this standard in two of the last six months they have been at 100 percent, two of the last six months there was no data, and two of the last six months they were below the standard. However, those two months that they were below the standard took place before the final documentation on the release notification milestones was completed by the CMP. Since that time, the milestones are more clearly defined in the CMP documentation.

On this criterion, I would recommend that PO-16 just be used to hold Qwest accountable for these release notification dates, and if they're at a six-month review is evidence of poor performance in this area, then something could be done at that time.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree as well.

MS. QUINTANA: The next criterion for

systems is 23-1-8, and this corresponds to exception 3111.

This criterion is defined as criteria are defined for the prioritization system and for severity coding. KPMG found this criterion was unable to determine. They stated that the second IMA 10.0 prioritization which took place at the beginning of this year included five Qwest-originated PID PAP related change requests. Qwest classified these change requests as regulatory changes and bypassed the CLEC ranking vote. CLEC subsequently disputed this classification, objected to the preferential treatment of these CRs, and requested that Qwest reallocate resources to implement other prioritized CRs. Qwest proceeded to schedule the implementation of four of these CRs in the IMA 10.0 release over CLEC objections.

As you recall, this is the impasse issue that was brought before this Commission to decide whether the PID PAP changes should be classified as regulatory changes which would have had the result of placing them above the lines, so to speak, and not be prioritized with the other change requests. This Commission found that they should not be classified as regulatory CRs and that any change

requests associated with a PID or a PAP should be prioritized along with all of the other change requests.

This decision was not made by this Commission until March 13th, which was after the prioritization occurred for Release 10.0. Im that decision also, as you recall, 11.0 had already been prioritized as well, and the Commission made the determination that the two regulatory -- the two PID PAP changes in 11.0 that had been treated as regulatory in that one as well should remain as regulatory changes just for the purpose of that release and that from 12.0 onward they should not be regulatory changes. So it was this Commission's determination that those two changes did not need to be reranked by a special vote.

KPMG's finding is based on the fact that that prioritization process was changed by this Commission's decision on the impasse issue and that they had not been able to observe a full prioritization without -- excuse me, with the new determination in place.

My opinion on this is that the change that came as a result of the decision on the impasse issue did not truly affect the prioritization process

as a whole. I think it was a very important decision to make, but it did not change, for instance, the way the balloting is done, the way tne CLECs actually rank the -- CLECs and Qwest actually rank the change requests. None of the meat of the process was changed by this Commission's decision, therefore I find that this Commission can overlook, if you will, KPMG's finding of unable to determine on this issue because I think that there's enough evidence that Qwest has adhered to the prioritization process with 10.0 and 11.0.

CHAIRMAN GIFFORD: Commissioner Dyer?

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I think that's right and I agree.

MS. QUINTANA: The next systems criterion is 23-1-9. This, again, relates to exception 3110.

KPMG had a finding of unable to determine. Again, this relates to the adherence to the systems software release notification intervals and documentation release requirements.

During the course of this part of the test, Qwest did improve a new process with its wholesale help desk to ensure that all of the

notifications include word attachments so they're much easier to read. This was one of the issues that came up through the redesign process. The CMP participants receive many, many, many CMP notifications throughout the course of a month, and so a process was defined through the wholesale help desk and through the actual CMP notification Web site to make those much more easier to read and also to find on the Web site itself if one were to go and look for one.

This recommendation is very similar to the one from 23-1-7. I believe that our CPAP with PO-16 takes care of Qwest's timeliness on these release notifications. I am aware that PO-16 is currently being redefined, and as of Tuesday or yesterday, I forget which day, Qwest did make the representation that once that work is -- very shortly that work will be taken to the long-term PID administration group for approval of that redefined PID. At that point in time Qwest also stated that it will bring the approved redefinition to this Commission for incorporation into both Exhibit B and into the CPAP. Until that time, I see no reason to make a change to our current PO-16 in the CPAP.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I think those

changes will take care of this issue as identified by KPMG, so I agree with your recommendation, Ms. Quintana.

MS. QUINTANA: That covers the systems unable to determine criteria.

I'd like to move on now to the product and process issues. The first one is 23-2-2. This is the description is the change management processes in place and documented.

KPMG found this unable to determine because at the time of its testing there were areas such as the postponement of a CR and the exception process that were not agreed to or defined by the redesign team. Since that time, the redesign team has agreed to language for both of those processes. In fact, Qwest has given every indication that it is going to finalize the draft CMP at the final redesign meetings next week and take that document to the full CMP group at its mid-July meeting for final approval of the entire document.

This does not mean that this document will never be changed. There is a possibility that some future issue might come up that requires a change to the CMP document. However, the language in Section 12.2.6 now in the SGAT allows for changes to be made

to that exhibit without amendments necessary. While KPMG found this unable to determine, I believe that in the past month a significant amount of work has been done to that document for this Commission to find that it is in fact in place and all of the core meted processes are established and agreed to.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree that the current status shows that that criteria has been met.

MS. QUINTANA: I'd like to take the last three criteria together because I think they're very interrelated, those being 23.2.7, 23.2.8, and 23.2.9. These relate to exception 3094, loosely.

All of these, as I stated before, deal with product and process issues and they're very similar to the systems issues that we just talked about with release notifications. In product and process they're not called release notifications because they deal with methods and procedures, manual processes, things that aren't directly related to an OSS.

In these unable to determine criteria, KPMG stated that it was unable to confirm that Qwest has procedures and systems to track all of the proposed product and process changes. Although this

mechanism provides for external reporting, being the Web site and what is called the customer notification letter archive, it does not serve as an internal tracking system for the proposed product and process changes.

In addition, KPMG had not, at the time of the ending of the OSS evaluation, reached the conclusion that Qwest had gun to categorize all of its product and process changes as had been just recently agreed to by the redesign team, that being the five levels of changes from level zero, which is a change that can simply be made and not even noticed such as typographical errors, things of that nature, all the way up to what's called a level four change that requires Qwest to send out a much longer notification allowed for CLEC comment and is basically considered as substantial as a change request, which is a lot more of a process.

As you know, in the order on the remand issues for the CPAP, this Commission ordered Qwest to file that product and process once decided upon by the redesign team so that it could be incorporated into the CPAP and penalties assigned to it. Qwest has made that filing and that will be on the Commission's weekly meeting agenda for next week

with a staff proposal for the associated penalties, at which time we expect that to be sent out for comment, hopefully rather brief comment cycle, to then be incorporated into the CPAP with the penalties.

So I think for these three remaining undetermined criteria, that new penalty regime that will be set forth in the CPAP will hold Qwest accountable to these notification time lines associated with the product and process changes.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I think that's accurate and the best we can manage on this record.

MS. QUINTANA: Those are -- that is the extent of the seven unable to determine Change Management criteria from test 23. I would like to now move on to the two not satisfied criteria from test 24.6 which was for the interface testing.

The first one is 24.6-1-8. This is described as a functional test environment is made available to customers for all supported interfaces. Corresponding to this are two exceptions, exception 3077 and exception 309D5.

KPMG found that a functional test is not in fact made available to customers for all supported interfaces. KPMG outlines in its final

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final report that there were deficiencies in the interop testing environment; it issued exception 3029 on those deficiencies. At that time Qwest told KPMG in the response that it was not going to be doing any further enhancements to its interop testing environment; rather, it would be developing the standalone test environment or SATE. In August Qwest did actually release the first version of the SATE testing environment.

KPMG Consulting reviewed the SATE documentation and identified that the SATE transaction responses are manually generated and that environment does not support flow through transactions. As a result, KPMG issued exception 3077.

In its response, Qwest requested that KPMG close exception 3077 without waiting for the SATE enhancements to be implemented and subsequent retest verification activities to be completed. Therefore, KPMG closed 3077 as unresolved.

In a related exception, KPMG Consulting identified problems relating to adding functionality to the SATE. This exception was 3095. The issues raised in this exception included the process for adding new IMA products for testing as well as adding existing products not currently

supported in SATE.

Again, in its response, Qwest requested that KPMG close this exception without waiting for the SATE enhancements to be implemented and therefore it was closed unresolved.

We have heard quite a bit of testimony and comments on this criteria. AT&T in its affidavit of Tim Connelly states that the SATE is significantly deficient when it is compared to the test environment that Verizon developed to gain 271 approval. That Qwest implemented and enhancement to SATE because of its limitations regarding mirroring of post-order production transactions such as FOCs, order rejections, and order completions. The VICKI was implemented around the end of January of 2002, but according to AT&T, VICKI still fails in key areas.

Another failure of SATE, according to AT&T, is that Qwest does not freeze above the test and the implementation versions such that changes cannot be made to one without making changes to the other. Therefore, the test releases may differ from the release Qwest implements. AT&T states that SATE is a work in progress but definitely not ready to pass the FCC's criteria.

In its response, Qwest states that

extent yesterday from Ms. Notarianni and her exhibits that had been attached to her CMP comments as well as their comments on the ROC OSS test, I believe that the record demonstrates which CLECs have used SATE, which CLECs have used the interop testing environment, and for which releases, so I don't believe we need to go into that now.

My recommendation on this. I tend to agree with KPMG's findings. I think that the flow-through capabilities that were implemented in mid-May, the addition of the VICKI enhancement to SATE have made what was before a rather poor testing environment into a much more usable and CLEC-friendly testing environment. However, I believe that Qwest should be held accountable for these enhancements to continue to work or to continue to need to be enhanced further.

MS. QUINTANA: And therefore what I have concluded is that the existing PO-19 PID, which is not currently part of the CPAP, be included in the CPAP. That is the PO-19 is currently in Exhibit B for Qwest's SGAT, along with the other PIDs, but as I stated is not currently incorporated into the CPAP.

What I would recommend is that the current definition of PO-19, as contained in Exhibit B, be put into the CPAP and an associated $50,000 penalty as a Tier II special fund payment be placed on this standard until that 95 percent standard is adequate at this time. Out of the last six months, Qwest has met that standard four of those six months. And the other two months they were just slightly below the 95 percent standard. So hopefully this $50,000 payment will never have to be made.

(Discussion off the record between Ms. Quintana and Ms. Jennings-Fader.)

MS. QUINTANA: I am aware also, after listening to the discussions and testimony this week, that PO-19 is currently in a redefinition stage. I believe it is being separated into PO-19A and PO-19B. PO-19B will actually go more towards the mirroring of the production environment tied to SATE. Qwest did make the commitment that it would take those

definitions changes to the Long-Term PID Administration Group when it has its first meeting. However, I don't know when that will be. Even that Long-Term PID Administration Group is still kind of out in space and nothing is pinned down, which is why I think that the PO-19, as defined already in Exhibit B, should be incorporated post-haste rather than waiting for that redefined PID to be incorporated.

However, at that time, when either the Long-Term PID Administration Group agrees to a redefinition of PO-19A and B, or it is clear that they cannot reach agreement on that redefinition, Qwest should bring its proposal to this commission for incorporation into the CPAP.

At that point in time, if my thought is correct on this, for instance, if PO-19B is CLEC-specific, which I think they are intending it to be, that penalties could be adjusted at that point in time to be either a Tier I.A or Tier I.B penalty to be pay directly to the affected CLEC. And PO-19A, if it gets to a disaggregated level per release, likewise, the $50,000 penalty could be disaggregated to cover each of those releases, rather than perhaps 50,000 for each.

I believe you do have in front of you --

some of you have proposed language for incorporation into the CPAP the PO-19. Again, this $50,000 figure would be for a miss of 95 percent per month, to be paid to the special fund.

CHAIRMAN GIFFORD: Is it your opinion, Ms. Quintana, that absent this condition, we have got a SATE problem.

MS. QUINTANA: I believe that Qwest has made great strides in the past two or three months to, as I said before, to improve flow-through. The VICKI enhancement, I think, has gone a long way, from what I can tell, from both Qwest's information and from commercial information. However, I think that there's a potential that more changes might be necessary as more CLECs use this environment and potentially find other problems with it, or just have difficulty in, you know, documentation issues, that kind of thing, we just don't know. And I think by placing PO-19 into the CPAP, Qwest will have that added incentive to get it right.

CHAIRMAN GIFFORD: Well, this -- let me tell you how I look at it, and tell me if it's consistent with your recommendation. And I know we'll talk about the five criteria soon. But, as a is probably painfully obvious, we have a problem with one

of the criteria, namely, the evidence that this thing is actually working in practice. So, it seems to me we have two options for the Colorado commission on that one. We can remain silent and say we haven't seen much in practice. Or two, in essence, we can try this recommendation that you have proposed, which is a, by putting PO-19 into the CPAP, and attaching a penalty, in essence, try and bootstrap our record with the CPAP on a going-forward basis to illustrate some commitment to that, I think it's the fifth criteria, I can't remember which one on the test, but, the working in practice one.

And so, that's kind of the way I look at this recommendation. And on that ground, I would adopt it. It's really trying to bootstrap a problem that we might have in our records now. It may not matter to the FCC. I think, if Qwest has the self-confidence that it didn't, they can tell us to pound sand on this one. But, it does seem to you, and I think to me, as well, that if we look at that fifth criteria, we have done a lot of work on CMP to race to catch up, since we're a lot further behind than we ever should have been. But, we still run into that difficulty of having the systems operate, having them start working, not having an extensive amount of time to make it work.

And so I think, on that ground, I would, you know, at least condition our positive recommendation to that prong on this. I think we can relook at it in six months, I think. You know, up or down, in or out but, I think when I -- we do need to get something in there to, in essence, to try and bootstrap this record.

MS. QUINTANA: Okay. Thank you. Along with that, Mr. Chairman, I would recommend that this has risen to the level of needing to be incorporated prior to a positive recommendation on CMP. I think that there's enough evidence in the record that SATE is at question, and that your recommendation should be contingent on the PO-19 being placed into the CPAP.

COMMISSIONER DYER: Yeah, I agree.

CHAIRMAN GIFFORD: Yeah. This is really, I think, the closest call of this whole record, as everyone has been recognizing of late, and as our workshops, I think, showed us and the comments.

MS. QUINTANA: Just so we're clear, for the record, the recommendation is that the PO-19, as defined in Exhibit B, the April 29th version of the SGAT, be incorporated immediately into the CPAP, upon the, either the Long-Term PID Administration Group agreeing to the redefinition, or it being very clear

that they are not going to agree, in whatever process that you know, how that, however that gets worked out, Qwest should bring the redef -- its proposed redefinition to this commission prior to any type of six-month review. I don't believe that that redefinition should wait for a six-month review either.

CHAIRMAN GIFFORD: Right.

MS. QUINTANA: Yeah.

CHAIRMAN GIFFORD: And my point really was, this is kind of an on the fly bit of patching we're trying to accomplish here, to the extent the FCC takes that fifth criteria seriously. And that's why I would certainly leave open the door to reexamines and recalibrating this, if need be, because this isn't something that we're doing after notice and comment and deliberation. It's that this record has a slight problem on that fifth criteria, and we are proposing to fix it this way.

MS. QUINTANA: Thank you. I just wanted to be clear.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: Yeah, I agree.

MS. QUINTANA: The last criterion is 24.6-29 that MEDIACC EB/TA issue. This is related to Exception 3109. It's described as carrier-to-carrier

testing environments are available and segregated from Qwest production and development environments. We also heard a lot of testimony on this the past few days. KPMG found this criterion to be not satisfied. They stated that Qwest carrier-to-carrier testing environment used by CLECs to develop their MEDIACC EB/TA interface is not segregated from the MEDIACC EB/TA production environment. The MEDIACC portion of the test environment is run on a separate server to which the CLEC must establish a secure connection to conduct carrier-to-carrier testing.

In addition, Qwest utilizes a separate server for the WFA to process design service test scenarios during end-to-end testing with the CLEC. The end-to-end testing phase is described in the system test plan for an electronic bonded trouble administration document.

Now, this is where the not-satisfied issue comes up for nondesign test scenarios; however, these are processed by the LMOS production main frame. Qwest uses a system flag to prevent test scenarios from being dispatched during the nondesign service testing phase. Nondesign circuit submitted through the LMOS production system are monitored by a Qwest assigned tester, so that test orders are not dispatched, and

thus potentially impacting Qwest's operations and customers. KPMG Consulting raised this issue in Exception 3109, which describes the limitations and potential impacts of testing nondesign services in the LMOS production main frame during end-to-end testing.

KPMG Consulting identified that Qwest documentation for the architecture of the EB/TA test environment was inadequate. KPMG Consulting investigated the commercial experience of commercial CLECs to assess the impact of the production component on their testing effort. KPMG Consulting found that due to the necessary manual intervention of the Qwest tester, two nondesign service test trouble reports submitted by a CLEC passed through to the Qwest production screeners. In the response, Qwest advised KPMG that, as no immediate changes were planned for the maintenance and repair test environment, KPMG should close the Exception 3109 as unresolved, which KPMG did.

Qwest's response to this is that the FCC has never required BOCs provide CLECs with an electronic interface for maintenance and repair activities for 271 approval. Therefore, the commission need not consider this exception for a 271 evaluation. Nevertheless, the interface, based on ANSI, was developed for IXE trouble tickets in 1996, and began

supporting CLECs in 1997. To date, four CLECs have successfully built and tested to Qwest's EB/TA interface. With the exception of this sole criterion, KPMG found Qwest's EB/TA to be satisfactory. Qwest goes onto state that, in KPMG's view, the test environment for all components of the testing process should be physically separate from the production environment with access provided to duplicate the LMOS production database used for nondesign services.

In Qwest's experience, the fact that the EB/TA testing uses the LMOS production to applications is not detrimental or limiting, rather is advantageous to the CLEC, because it performs the full functionality of EB/TA to be tested. We heard from Ms. Notarianni yesterday that the two instances that KPMG refers to where the CLEC test transactions were actually flowed through to the Qwest production screeners were the only two that KPMG found to occur, and although they did get to the Qwest production screeners, they were not, in fact, dispatch or truck rolls to repair a test transaction which, of course wouldn't make sense.

So, Ms. Notarianni said that, based on this limited problem, if you can even call it a problem with the LMOS testing account, actually part of the production rather than a separate system, Qwest may

have the decision that it did not need to expand, in essence, a million plus dollars in her estimation to separate out this testing from the production environment.

I agree with Ms. Notarianni's characterization of the EB/TA environment and the LMOS production. I don't believe that anything needs to be done with this criterion. The CLECs really did not address this in their written comments and really the only reason that they discussed it at the workshop was because of staff's questions to them. I agree with Qwest that there currently seems to be no problem with the LMOS use for testing, being the same LMOS that is used for actual production. So, I would just recommend that the commission do nothing about the MEDIACC EB/TA production environment.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: Yep. I agree with that.

CHAIRMAN GIFFORD: Sounds good to me. Squander a million.

MS. QUINTANA: Turn to the FCC criteria on change management. You have seen these before. The commission approximately two months ago had the CMP decision in front of it, and, at that point in time,

decided that more information was needed on the various criteria set up by the FCC. So, what I would like to do is just discuss these very briefly, one at a time, tie them back to the decisions that you all just made with the test criteria, and give you my recommendations on the CMP plan as a whole.

The first FCC criteria is that information relating to the Change Management Process is clearly organized and readily accessible to competing carriers. I believe that this is already been discussed this afternoon. Qwest has made -- Qwest and CLECs, the redesign team, have made significant progress in the past two or three months in finalizing the CMP document. It has been available on the Website for approximately three and a half, four months now, in one form or another. There have been additions that have been made to that such as the postponement language, the exception language, this recombining of the production support language, the changed management process, managing the Change Management Process itself, and things of that nature. I believe that, by the end of our meeting scheduled for next week, Qwest will be presenting the final CMP documented to the full CMP team for approval.

Because we are so close to that final

approval by the CMP team, I feel that this commission can already make the determination that Qwest did in fact have a document that is clearly organized and readily accessible.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree with that criteria is met.

MS. QUINTANA: The next FCC criteria is that competing carriers had substantial input in the design and continued operation of the Change Management Process. I can certainly attest to this. We have held redesign meetings for almost a year now. We began in July of last year. We have met twice a month for two or three days at each meeting. There has been very good CLEC participation by a handful of CLECs. They have attended virtually every meeting, if not in person, then on the phone. I don't believe that anyone, including the CLECs, in their comments questioned their input both now and the possibility of their input in the future in the Change Management Plan or process.

So, I think that this commission should make a finding that the CLECs, in fact, have had and will continue to have substantial input in the CMP.

COMMISSIONER DYER: We would hope. That

means yes.

CHAIRMAN GIFFORD: And I agree that we can make that finding on this record.

MS. QUINTANA: The next FCC criteria is that the Change Management Plan defines a procedure for the timely resolution of change management disputes. The CLECs, in their initial comments, back in April, on CMP, had a bit of a problem with this, not because the dispute resolution process or the escalation process are not defined in the CMP, but because the dispute resolution process has never been used by any one to date.

I see that as actually a good thing. I think that there are under 10, but somewhere right around 10 issues that have been taken to escalation. The majority of those have either been resolved or are in the process of being resolved, and have not had to go that next level to be filed either with the commission or in an arbitrated proceeding as a dispute. So, I don't think that Qwest should be punished in any way because their dispute resolution process has actually not been used. And I would represent to you that it is a robust dispute resolution process, very similar to the dispute resolution process that is actually contained in the SGAT itself.

And, so, I think that this commission should find that, although it has not been used, that the Change Management Plan does define a procedure for the timely resolution of dispute.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: Yes. I agree that it does.

MS. QUINTANA: Okay. The fourth FCC criteria, the availability of a stable testing environment that mirrors production. I believe we have addressed this issue already this afternoon with release of or with Criterion 24.6-1-8, I believe. You know what I mean. And that there's no further discussion necessary on this, with the caveat that the chairman brought up. While I don't know that this commission can make a black and white determination that Qwest did have a stable test environment, I think that the recommendation from this commission should be more of, we have done what we can here. Perhaps the FCC can take a closer look at any information that transpires between May and the time an application is ready for approval or denial at that level. But, perhaps just earmark this for the FCC and not hold up Qwest's CMP approval on this issue.

COMMISSIONER DYER: Agree.

CHAIRMAN GIFFORD: Now, I think the strides that you described that have been made towards getting this up to snuff have been notable and meet this criteria with a little help.

MS. QUINTANA: Okay. The next FCC criterion is the efficacy of the documentation the ILEC makes available for the purpose of building an electronic Gateway. This is tied to Exception 3110 that we addressed within systems criteria. KPMG closed that as inconclusive, but I believe that we have already addressed this. And, as I stated before, Qwest's CMP is much more robust in the area of documentation, what is required in the release documentation, the technical specificationss, the meetings that surround all of that information being given to the CLECs. And so, I believe that this commission can find that the documentation for the building of an electronic Gateway and processes surrounding that documentation is in place and that's all.

CHAIRMAN GIFFORD: Commissioner Dyer.

COMMISSIONER DYER: It is.

MS. QUINTANA: It's there.

CHAIRMAN GIFFORD: I make such a finding.

COMMISSIONER DYER: I would make such a finding.

CHAIRMAN GIFFORD: And I would as well.

MS. QUINTANA: Now, the last two parts of the CMP and FCC criteria are not criteria specifically but are things that the FCC looks to when it examines a Change Management Plan, the first of those two being the pattern of compliance. We have heard a lot on this, also, the last few days in relationship to CMP and as well the CLECs have put quite a bit of information into the record from their comments. And Qwest has responded to those comments on the pattern of compliance. What I think is, this boils down to, now, though, in questioning of the CLECs, this past week, I believe that their concerns surrounding one issue remain, and that is prioritization. And I believe that we have already -- you've already made a decision on the unable-to-determine criterion for the prioritization -- the systems prioritization process. I would stand by that.

I believe that Qwest has implemented the various parts of the CMP, when they have been decided or approved by the redesign team. The prioritization process specifically, I believe that Qwest and CLECs have gone through two prioritizations now and have

another one coming up in about a month. As I stated before, I believe that this commission's decision on the PIDs, PAP, CRs did not affect the prioritization process to the level that Qwest's adherence to the process would come into question. So, I would recommend that this commission find that Qwest has adhered to the Change Management Plan and there is that pattern of compliance.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: And I agree as well.

MS. QUINTANA: And finally, the last one is adequate technical assistance to CLECs in using the ILECs OSS. This has -- this is a multi-faceted criteria. It goes from the Help Desk to the documentation, to the time lines, pretty much anything that falls under the Change Management Plan could be part of this test of technical assistance; and, therefore, because this commission has found that all of the piece-parts of the Change Management Plan have met the FCC criteria, I believe that this one falls into place right below that. And that the recommendation would be that Qwest has adequate technical assistance in place for use of the CLECs in using the ILECs OSS.

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree as well.

MS. QUINTANA: So, a final wrap-up, then, of CMP. With the exception of the addition -- the contingent addition of PO-19 into the CPAP, the only thing further that I would recommend in relation to CMP is that instead of the version of the CMP document that is attached as Exhibit G to Qwest's April 29th SGAT, that the newest, most complete version that includes the exception process, the postponement language and the changes to the production support language, that were all agreed to, be used as the attachment that eventually gets sent to the FCC.

COMMISSIONER DYER: Agree.

CHAIRMAN GIFFORD: That seems to be the best product, so we might as well submit that.

MS. QUINTANA: And with that, and with those two caveats, I would recommend that the commission find that Qwest did have a compliant CMP for 271 purposes.

COMMISSIONER DYER: I so move.

CHAIRMAN GIFFORD: So find. Again, I think this was probably the closest call in the record. Very good work, certainly by you, Ms. Quintana to shepherd that to completion.

MS. QUINTANA: Thank you, and now, with

that, I think those are all of the discrete recommendations we have for you today, and I am going to turn it over for Ms. Jennings-Fader for a final wrap-up.

MS. JENNINGS-FADER: So, suffice it to say, that it's always left to the attorneys to state the obvious. So, therefore, I will fulfill my role of stating the obvious. It is the recommendation of your advisory staff that the commission recommend to the FCC approval of a Qwest 271 application, provided that the conditions that the commission has voted on today, and in prior commission decision meetings, be satisfied at the time that the application is filed with the Federal Communications Commission.

If I may briefly recap the bases for this recommendation are found in the following: The entire record that this commission has amassed over the last two plus years of intense work with respect to the language of the SGAT, the commission's Performance Assurance Plan, the pricing docket, Docket No. 99A-577T, the work the commission has done and in the en banc workshops of which there were many, the work that the hearing commissioner has done and commission has reviewed and I believe subsequently endorsed with respect to each of the workshops that were undertaken,

and the work the commission has done with respect to reviewing the interconnection agreements that have come before the this commission, and, in short, everything that the commission has looked at since, in essence, since the act went into effect in 1966 -- '96.

MS. QUINTANA: Seems like it's that long.

MS. JENNINGS-FADER: I believe that the standards the FCC has established are met, both showing present openness of the local communications -- telecommunications market to competition and the fact that that open market is irreversibly open and that the Commission has in place the -- excuse me, I shouldn't say, I -- that is so wrong. We believe that the record -- that the local market is open; it's irreversibly open; the Commission has in place procedures and processes which will assure future openness of the market or in the event something untoward should happen there are processes and procedures in place to allow for identification and correction as necessary.

So with that, that is the ultimate recommendation of your entire advisory staff. It is a unanimous recommendation.

CHAIRMAN GIFFORD: Commissioner Dyer?

COMMISSIONER DYER: Comments?

CHAIRMAN GIFFORD: Well, I have a few things to say which is probably -- I'll say them as quickly as I can.

COMMISSIONER DYER: May I precede you?

CHAIRMAN GIFFORD: Of course, that's always the, junior Commissioner's prerogative.

COMMISSIONER DYER: I have been a member of the Colorado Public Utilities Commission for a year and a month and what a ride it's been. Mainly it's an honor to be associated with professionals here under the able direction of Colonel Bruce Smith; thank you, Bruce.

I would like to recognize the many hours I spent with staff as you attempt to get me up the nearly vertical learning curve of things tellecommuniconic -- is that a word, Jim? And also recognize the work -- and you can see the sheer volume of paper that's been produced here; but also I think the thought process of staff, OCC, and the industry; a lot of beautiful minds out there that brings us to this day which I think is a win for the consumer.

Finally I thank my two colleagues for their patience and friendship and the thousands of votes we made. In the last 13 months, we have had two split decisions -- two.

And also my friend Chairman Ray Gifford and -- who is going to now give us the valadictory address. But before we do, let me conclude by saying I agree.

CHAIRMAN GIFFORD: Well, let me just say I hope it's the valadictory address. I have a feeling

Ms. Tribby, Mr. Dixon, and Ms. Doberneck might have a differing opinion.

But let me try and sum up what we've -- we think we've accomplished: U S West filed is Colorado 271 application on November 30th, 1999; 926 days from filing to today. In the meantime, the Qwest Regional Oversight Committee convened a region-wide collaborative operational support system test done by KPMG, Hewlett-Packard, and Liberty Consulting.

The Colorado Commission hosted a series of collaborative workshops to finalize a statement of generally available terms and conditions. The Colorado Commission engaged Special Master Phil Wiser to draft a Performance Assurance Plan. The Colorado Commission completed a wholesale pricing docket and a Change Management collaborative -- convened, morphed, and convened again with participation of Colorado Commission staff.

In all, this has been an enormous undertaking.

We now find ourselves at a point where Qwest believes it has met the criteria of 47 USC 271 and is ready to file an application at the Federal communications Commission.

All of the CLEC participants in this

docket believe that Qwest has yet to meet the statutory criteria for various reasons and that further proceedings are required.

As this Commission has stated all along, Qwest has the prerogative on whether and when it will file its application with the FCC. Qwest has now indicated it will exercise that prerogative and file its application. It therefore becomes this Commission's job to decide what its recommendation will be under 47 USC 271(d)(2)(B). In thinking about this and trying to put the last two and a half years together for what we've called and what we hope will be a final deliberation, I went back quickly, admittedly last night over past FCC orders and the early orders of this Commission in initiating this docket.

I looked at principally the Bell Atlantic New York order and the Texas order and also did a quick runthrough of more recent orders like Verizon Massachusetts and Vermont; and as all the parties to this docket know, Section 271; and the FCC analysis thereunder is hardly a clear rule-bound bit of law.

And I think the crucial determination that's now put in -- the crucial paragraph as to the FCC's analysis that now appears I think in every 271 application has been quoted to us recently is this one

I'm going to put it in and read to you it is in the Bell Atlantic New York order paragraph 26: Finally we note that a determination of whether the statutory standard is met is ultimately a judgment we must make based on our expertise in promoting competition in local markets and in telecommunications regulation generally. We have not established nor do we believe it appropriate to establish specific objective criteria for what constitutes quote substantially the same time and manner or a, quote, meaningful opportunity to compete, end quote.

We look at each application on a case-by-case basis and consider the totality of the circumstances, including the origin and quality of the information before us to determine whether the nondiscrimination requirements of the Act are met. Whether this legal standard is met can only be decided based on an analysis of specific facts and circumstances.

The standards applied by the FCC then are extraordinarily broad. The contours of when an RBOC passes and when it fails a checklist item are quite indistinct and sometimes appear to change from application to application. In all, it makes for a quite frustrating task for me as a State Commissioner

and I'm sure to you as well as participants to say when Qwest has done enough to earn a passing grade.

Criticism of totality of the circumstances test is well known to the lawyers in this room; totality of circumstance analyses admit for very little law and a great deal of guessing about the preference of the ultimate tribunal. Indeed in the public interest orders out of Volume 7, I more than once noted that a standard where everything is relevant and nothing is dispositive, where no relative weight of the factors are known beforehand makes principal decision making quite difficult.

This is all exacerbated by the enormity of this record. The complexity of Section 271 process makes it nearly impossible to comprehend its various aspects much less weigh the relative weights and importance of the various aspects.

OSS is important. Pricing is important. Performance assurance is important. CMP is important. Suffice to say our record has treated all these and other issues as important. We have fleshed out a record and made decisions reflecting what we understand to be the FCC's requirements.

Finally -- and this is the pretentious part of my presentation, Ms. Jennings-Fader, I warned

you of yesterday -- after I went to the FCC's orders and standards, I thought back into my legal education and remembered Justice Holmes essay, The Path of the Law, where he said a couple of interesting things that I think are apposite to what we're doing here today, and of which I don't necessarily ultimately agree: The Path of the Law is a very famous essay and a couple of the aphorisms out of that is, quote, The object of our study then is prediction, the prediction of the incidence of the public force through the instrumentality of the courts -- in our case the instrumentality of the federal administrative agency.

And the other famous quotation from that is: The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law.

And while I remembered these quotations, I think that's ultimately what our task as the Colorado Commission comes down to is our best effort in making a prediction at what the FCC would do with the record we have assembled for them.

Setting aside the circularity of that position, I do think that's the best way to understand what our task is. And through that, I think -- I look at all the proceedings that we've had to meet the

fourteen-point checklist; we've compiled a very thick SGAT through six Commission staff reports and 12 Hearing Commissioner orders. We've participated exhaustively in the OSS test. We've been through Phase I of -- to come up with new TELRIC compliant rates. We've done public interest and devised what I think is a rigorous and substantial Performance Assurance Plan; plus I think done the analysis of Track A and 272.

On the record we've assembled I think it is my prediction that the FCC will grant Qwest 271 entry, based on this work.

Now. I do not discount the objections raised by the various CLECs participating in this process. Indeed to the contrary, their input has oftentimes been crucial to market opening steps that Qwest has taken. By the same token, I must make note that certain participants to this docket have never supported a 271 application and given their respective interests will never do so. It is in the interest of certain participants to protract this process as long as possible -- and protracted this process has been; not only due to the regulatory gaming that would be expected in such a process, but also because of genuine issues with the openness of the Colorado local exchange market and the existence of structures to make that

openness irreversible.

And I would be remiss in not stating that Qwest has proven remarkably adept at tripping over its own shoelaces, causing delays and creating controversies where there need not have been any.

Now, I do not expect the objecting CLECs to accede to our view that Qwest meets 271 requirements; rather I fully anticipate hearing in, say, 20 or 45 days what a terribly botched job of this we have done from high priced Washington FCC lawyers. And maybe they will be right that this application has a softer underbelly than I think it does; but on balance, I think we go to the FCC with the most rigorous OSS test in the nation and backed up with a going forward Performance Assurance Plan that is the most exacting ever instituted.

I support a positive recommendation because I believe that Qwest has met the statutory criteria. I further support the application on the basis of the diminishing returns the consumers will see from prolonging this process.

Advocacy that makes the best the enemy of the good; that regards the OSS test as an end in itself; and obscures consumers' interests behind would-be competitors' interests' should not be

indulged.

I finally return to the fact that long distance entry will be in the public interest. I'm not sure what exactly the consumer welfare benefits are to be had from Qwest Long Distance entry but I am convinced that there certainly are palpable consumer gains to be had. As I concluded in my public interest order, there are uncontrovertible consumer welfare gains to be had from Qwest's long distance entry. There is no longer adequate reason to delay these benefits to Colorado consumers.

Furthermore, I believe that CLECs that are genuinely interested in competing will be better protected from and compensated for discriminatory behavior by Qwest under the Colorado Performance Assurance Plan, which attempts to award a measure of compensatory damage for CLECs when Qwest breaches its contractual obligations to them.

In the end, it is my prediction then in the full-Holesian sense, that the FCC will approve Qwest's application based on this record and what has been accomplished through this process.

We have an exhaustive, regulatorily-prescribed SGAT, we have recently-adopted TELRIC based-UNE prices, we have a rigorous Performance

Assurance Plan, we have an operable OSS System; and finally, we have a passable Change Management system.

This is the longest SGAT ever, the most rigorous OSS test ever, and the most exacting Performance Assurance Plan yet sent to the FCC. And we should not necessarily be proud of all these facts but they probably are speak well of the application's prospects in -- before the FCC.

Thus the fourteen-point checklist has met the public interest test, has met the separate affiliate requirement of Section 272 is met, and Track A of Section 27 is met; in sum, based on the vote of my colleague Commissioner Dyer, this Commission will recommend to the FCC that Qwest's application under Section 271 of the Telecommunications Act of 1996 be approved.

Now, before we close -- and I do hope that this is the -- I know you have something to say.

MS. JENNINGS-FADER: Sorry. Yeah.

CHAIRMAN GIFFORD: I'm not done yet.

MS. JENNINGS-FADER: Oh.

CHAIRMAN GIFFORD: No lunch for you.

MS. JENNINGS-FADER: Okay.

CHAIRMAN GIFFORD: Before we close, what I hope is the last time I see you all at least in this

context, I want to acknowledge and express my gratitude to the participants in these dockets. I still don't think I'm sold on the collaborative process but after two years together I have to express a certain fondness for all the familiar faces around the room.

To the extent we've exasperated one another, been unduly cranky or bored each other into submission, this is an unfortunate nature of this process. But to the extent I have been the cause of any of this, I apologize.

Because we all have a few rounds of words to trade with or against one another at the FCC in the coming future, I will leave it at that; although I do look forward to AT&T's analysis of my public interest views.

But more than anyone in this room I want to express my gratitude to the staff of the Colorado Public Utilities Commission. This has been a colossal undertaking that involved no small degree of folly. In the face of this there is no other Commission in the Qwest region that has worked harder or has been has been more integral to shepherding this process to completion. There is no commission staff in this region that knows this record and has worked harder to make this 271 process work.

And I want to start at the top by recognizing Commission Director Bruce Smith who has always has led this operation and seen that all necessary staff resources have been devoted to doing an excellent job through this process.

Now at least in one trip to the FCC Bruce has been called the Chairman of the Commission and I think I was his valet; so to the extent there are any errors in this record, it's Bruce who made those decisions; and he looks more authoritative than I am anyway.

But next I want to turn to three staffers in 198T and 041 who have been indispensable to this process. And first to Wendie Allstot who again there has been no staffer in the region who knows the OSS test better. I've certainly appreciated her practical intelligence and sharp mind. She has really been at the forefront of state staffers in -- in staying on top of the OSS test and knowing it.

I know that in part because I've heard that from other Commissioners in other states as to what a great asset Wendie has been and in addition she's worked for wages much lower than the median consultant on this project. So she's to be commended for her selflessness as well.

Next I want to acknowledge the efforts of Becky Quintana who has also been crucial to getting this to fruition and, in fact, is key to getting Change Management up to snuff, identifying it as an issue early on and goading me to bug all of you to get Change Management into shape. She's worked far above and beyond the call of duty, been crucial along with Wendie to the CPAP and reminding me of all the loose ends -- of which there may still be a few that need to be tied up in this docket.

I would also commend she and Wendie putting up with me because I think they alternated in bringing me the news of when the test was delayed yet again. And folks in the executive office will know that when that news was forthcoming it wasn't -- it was sometimes a harrowing event. I think Bruce also got some of that blow back when I would here about the next delay.

And finally I want to acknowledge my counselor, Mana Jennings-Fader, who played against type to make the transition from advocate to advisor with only minimum discomfort. You have been given me judicious counsel throughout this process and tolerated some of my flights; but also -- also brought me back to earth. If there are any legal errors in this record

they are mine not yours, Mana.

MS. JENNINGS-FADER: Thank you.

CHAIRMAN GIFFORD: And you and Wendie and Becky have really been indispensable.

Now the one stroke of genius I may have had in this proceeding was the solicitation of Professor Phil Wiser to serve as the Commissior special master in charge of devising the Performance Assurance Plan. Phil authored the CPAP which is a God-awful bit of industrial policy to some; an important instrument against backsliding to others -- probably a little bit of both. But Phil did an excellent job.

And as many of you know, I believe that the CPAP is the most important artifact out of this process on a going-forward basis.

I hope it is a good effort and the credit and the rigor for that planning to Professor Wiser as well as to Ms. Quintana and Ms. Allstot and Ms. Jennings-Fader who worked through that.

Now, there was another docket involved in this and those advisors were also crucial, Mike Zimmerman, Jerry Enright, and Warren Wendling advised the Commission on the pricing docket and their -- as well as Tony Marquez as counsel. Their work was also enormous and very analytically frustrating, but I think

we ended up doing a pretty good piece of work there -- at least we'll find out I suppose.

Warren in particular his mastery of cost models and ability to separate wheat from chaff was very helpful as well as Mike putting up with my theoretical economic discussions.

So I do think on the record and here what is hopefully our final 271 deliberation that our staff needs to be acknowledged and I would also thank the remainder of the Colorado Commission staff, who some of them have been involved or will be involved a lot more in the future and who have also managed to keep things running here while this Commission has been thoroughly distracted for the last two years, trying to get this done. Maybe in the coming months someone can come tell me what's been going on elsewhere.

But anyway I know there are some loose ends to tie up. I'm sorry I went on so long, but after two and a half years I figure we can weight five more minutes to hear me yammer on.

I think the next step, Ms. Jennings-Fader, if I understand, is we would like to get a pleading from Qwest saying whether they will meet these conditions so we can adopt our recommendation accordingly.

I don't know what day they file or what day the public notice comes out, but our next step is to proceed with the drafting of what will, we think, amount to a favorable recommendation to the FCC where this wrestling match will continue.

MS. JENNINGS-FADER: Thank you, Mr. Chairman -- and I do apologize for interrupting. I -- thank you.

Yes, staff has, now that the Commission has made its determination with respect to the recommendation and -- we would like to recap briefly the conditions that the Commission has approved or put on its recommendation during today's deliberation session and votes, and recommend that the Qwest's agreement or compliance with these conditions be memorialized in a compliance filing to be made by Qwest preferably, we would recommend, before the filing of the application with the FCC. If that's for some reason not possible, then at least contemporaneously with the filing of the application with the FCC.

To recap the conditions the Commission has approved today are -- no -- no particular order.

The substitution of a new Exhibit G to the SGAT filed in late April, that Exhibit G to contain the most current version of the CMP process.

The inclusion of PO-19 in the Performance Assurance Plan previously -- previously approved by the Commission, with a promise, as it were, to bring to the Commission immediately an amendment to PO-19 as -- as that may develop over time in accordance with the recommendation accepted by the Commission.

Amendment language to sections 9.2.2.3.2 to the SGAT; Section 9.2.2.8 to the SGAT; and 12.2.6 to the SGAT. And with respect to that in particular, we recommend that they -- or suggest that they -- Qwest needs only file the amended language to those sections; it need not refile the entire SGAT.

And finally, that Qwest indicate its agreement with respect to the Commission's condition having to do with proposed PO-20, the -- with respect to the OSS test and the human error component.

I believe that that is -- those are all the conditions the Commission has approved today to its recommendation and we request the Commission order a compliance filing to address those conditions.

CHAIRMAN GIFFORD: Commissioner Dyer?

COMMISSIONER DYER: I agree.

CHAIRMAN GIFFORD: I agree.

We have been putting out orders as we make these findings; so I assume we will be TDC-ing an

order memorializing the requirements, taking care of all the pleadings that we dealt with today.

COMMISSIONER DYER: Will there be time to run that --

MS. QUINTANA: It's not going to be today.

MS. JENNINGS-FADER: We're not clear yet.

CHAIRMAN GIFFORD: It can certainly come soon -- but not too soon. It will be out before we file the recommendation with the FCC.

MS. QUINTANA: There you go.

MS. JENNINGS-FADER: That is guaranteed for sure.

CHAIRMAN GIFFORD: Is there anything further to come before the Commission this afternoon?

(No response.)

MS. QUINTANA: I think that's all.

CHAIRMAN GIFFORD: With that, we're adjourned.

(Whereupon, the hearing adjourned at 1:30 p.m.)

CERTIFICATE

KRISTY TURNER, JAMES L. MIDYETT, and HARRIET S. WEISENTHAL, Certified Shorthand Reporters in and for the State of Colorado, do hereby certify that we reported the foregoing proceedings in the first instance, and that later the same was reduced to typewritten form under our direct supervision and control; we further certify that the foregoing is a true and complete transcription of our stenographic notes then and there taken.

Dated _____, 2002.

_____
KRISTY TURNER

_____
JAMES L. MIDYETT

_____
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Nebraska Transcript of Proceeding, May 6, 2002.

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION 12:48:16

IN THE MATTER OF QWEST CORPORATION FILING ITS NOTICE OF INTENTION TO FILE) SECTION 271(C) APPLICATION) WITH THE FCC AND REQUEST) FOR COMMISSION TO VERIFY) QWEST CORPORATION'S) COMPLIANCE WITH) SECTION 271(C).)

TRANSCRIPT OF WORKSHOP

(Pages 1-155)

Proceedings had before the Nebraska Public Service Commission at Lincoln, Nebraska, on May 6, 2002.

COMMISSIONERS:

Frank E. Landis, 1st District
Anne C. Boyle, 2nd District
Lowell C. Johnson, 3rd District
Gerald Vap, 5th District

APPEARANCES:

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C E R T I F I C A T E

I, Lori J. McGowan, Court Reporter, do hereby certify that the within and following complete transcript contains all the evidence requested to be transcribed by me, and the rulings of the court thereon, from the proceedings had in or at the trial of the foregoing cause in said court; and that said complete transcript is a correct and complete transcription of the evidence requested to be transcribed from the record made at the time of said proceedings or trial.

Dated this day of , .

Court Reporter

(At 1 p.m., the following proceedings were had:)

COMMISSIONER LANDIS: We're going on go on the record. This is application 1830. It will come to order. 13:13:14 13:13:15 13:13:19

I'm Frank Landis. I'll be the hearing officer. Not really a hearing officer. I guess this is a workshop format that we're conducting today. But in any event, I will be in charge. Whatever is done, I am in charge. 13:13:20 13:13:22 13:13:24 13:13:26 13:13:29

And to my far right is Commissioner Jerry Vap. My near right is Commissioner Lowell Johnson. And I know Anne Boyle, the commission's chairman, will be joining us. She had some problems in Omaha and going to be running about an hour late. But she'll be joining us and perhaps also Commissioner Rod Johnson, who I expected to be here this morning. 13:13:32 13:13:35 13:13:37 13:13:42 13:13:45 13:13:46 13:13:49 13:13:51

Lori McGowan will be our court reporter. 13:13:54

And Chris Post is our senior counsel for the commission and also the attorney that's handling 13:13:59 13:14:01

the 1830 docket. 13:14:03

And joining him at the counsel table is 13:14:05

Mr. Buster Griffing, who is an economist and a 13:14:13

consultant to this commission on the 1830 docket. 13:14:13

Also present in the hearing room this 13:14:15

afternoon is Mr. Gene Hand, who's director of our 13:14:17

communications department, and Mr. Dick 13:14:20

Palazzolo, who's been actively engaged in the 13:14:22

1830 docket from the start and including the 13:14:26

collaborative effort particularly that's been 13:14:31

ongoing. 13:14:34

Today's workshop will focus on two issues. 13:14:36

We'll first address the OSS test results, 13:14:39

particularly the closed, slash, unresolved 13:14:41

observations and exceptions. 13:14:44

We'll then move on to change management 13:14:46

issues. 13:14:48

Unless objected to by the parties, the 13:14:49

commissioners and staff will interrupt the 13:14:51

parties with questions as necessary. 13:14:52

And assuming that you all want to operate 13:14:54

under that -- 13:14:58

MR. CRAIN: We have no objection. 13:14:59

COMMISSIONER LANDIS: Okay. It's my understanding that the parties have discussed today's format and agreed that each side shall be allowed approximately one hour to address each issue. When we talk about an issue, we're talking about one issue regarding closed/unresolved observations, the second issue being change management procedure. Inasmuch as this is Qwest's docket, if you care to, you may reserve a little bit of your time to summarize. Is that your wish?

MR. CRAIN: Yes, it is.

COMMISSIONER LANDIS: Okay. 15 minutes?

MR. CRAIN: Make it 10.

COMMISSIONER LANDIS: 10 minutes. Okay. And I'm going to ask Commissioner Lowell Johnson to kind of keep his eye on the clock today and let us know. We'll be -- we'll exercise some flexibility here. But I want Lowell to keep an eye --

COMMISSIONER LOWELL JOHNSON: 10 minutes? 13:15:49

COMMISSIONER LANDIS: Oh, 10 minutes for rebuttal. So we'll do an hour, hour. Qwest will be given an additional 10 minutes for rebuttal or restating their position. 13:15:51 13:15:53 13:15:56 13:15:58

Notice of the workshop was published in progression order 30. And that came out on April 23rd of this year. It is noted in the commission 13:16:01 13:16:05 13:16:09

minutes, the meeting that was held that day. 13:16:15

At this time then we're going to receive appearances first from the parties and then from the commission staff. So we'll start with Qwest. 13:16:17 13:16:19 13:16:21

MR. CRAIN: This is Andrew Crain on behalf of Qwest. 13:16:25 13:16:27

We also have here today to answer any questions Lynn Notarianni, who is -- actually, I don't know what your title is, Lynn. 13:16:28 13:16:30 13:16:35

MS. NOTARIANNI: I just say director. I don't know what it officially is either. 13:16:37 13:16:38 13:16:39

COMMISSIONER LANDIS: Linda -- 13:16:40

MR. CRAIN: Lynn, L-Y-N-N. 13:16:43

COMMISSIONER LANDIS: Lynn. Okay. 13:16:44
MR. CRAIN: Notarianni. 13:16:44
MS. NOTARIANNI: 13:16:48
N-O-T-A-R-I-A-N-N-I. 13:16:48
COMMISSIONER LANDIS: All right. 13:16:53
MR. CRAIN: And Lynn has basically 13:16:53
headed our effort internally to handle the OSS 13:16:56
task in the ROC and in Arizona. 13:16:59
We also have Jill Vinjamuri here today as 13:17:03
well. 13:17:06
MS. FRIESEN: I'm sorry, this is 13:17:09

Letty. I -- Andy, is that Andy speaking? 13:17:10
COMMISSION LANDIS: Yes, it is. 13:17:12
MR. CRAIN: Yes, it is. 13:17:13
COMMISSIONER LANDIS: Are you not 13:17:14
hearing here, Letty? 13:17:14
MS. FRIESEN: No, I'm not hearing 13:17:16
Andy very well. 13:17:18
COMMISSIONER LANDIS: Chris, I 13:17:19
think it's more important that AT & T hear. We 13:17:19
can hear fine. Can we move the phone closer to 13:17:23
the -- 13:17:25
MR. POST: Absolutely. Letty, 13:17:26

we're going to move the phone closer to AT & T and hope -- hopefully a little bit. If at some point you can't hear, let us know. And we'll make Andy yell. 13:17:27 13:17:30 13:17:34 13:17:36

MS. FRIESEN: Okay. 13:17:37

MR. CRAIN: We're actually Qwest. We haven't been part of AT & T since -- 13:17:38 13:17:40

MR. POST: Oh, sorry. 13:17:44

COMMISSIONER LANDIS: Okay. 13:17:44

MR. POST: Correction noted. 13:17:46

COMMISSIONER LANDIS: For AT & T, Mary, do you want to enter your appearance. 13:17:47 13:17:51

MS. TRIBBY: Yes. Thank you. Mary Tribby on behalf of AT & T. Letty Friesen on behalf of AT & T. 13:17:55 13:17:56 13:17:59

COMMISSIONER LANDIS: Okay. Thank you. Anybody else on the phone bridge? 13:18:01 13:18:02

We have Cox here today. We want to get an appearance in. 13:18:03 13:18:05

MR. BRUNING: Jon Bruning, Cox Nebraska Telcom. 13:18:09 13:18:10

COMMISSIONER LANDIS: Anybody else need to get appearances? 13:18:11 13:18:12

MR. POST: Other than on behalf of the staff, Chris Post. With me today is Marlon, Buster, Griffing who's also taking part in this docket as the equivalent of staff. 13:18:13 13:18:15 13:18:18 13:18:20

COMMISSIONER LANDIS: Okay. Thank you, Mr. Buster. 13:18:22 13:18:23

With that then, unless there's anything else or any preliminary matters, as I say, this is a workshop. 13:18:23 13:18:27 13:18:30

We'll start, Andrew, with you. And I assume you're going to make about an hour's presentation and -- 13:18:31 13:18:34 13:18:36

MR. CRAIN: Sure. Hopefully I can do it more quickly than that. But -- 13:18:37 13:18:38

COMMISSIONER LANDIS: Okay. 13:18:40

MR. CRAIN: -- I won't promise. 13:18:41

COMMISSIONER LOWELL JOHNSON: Do you want me to take note of the hour? 13:18:43 13:18:43

COMMISSIONER LANDIS: If you would, please, Commissioner. And then we'll be a little flexible, but we want to exercise some restraint. 13:18:45 13:18:46 13:18:53

MR. CRAIN: Thank you. We've been -- the ROC test is currently just winding 13:18:55 13:18:56

down. We've been testing now for more than two years. KPMG has issued its draft final report. It's actually still doing a little bit of further evaluation that will be incorporated in its final, final report, which is currently scheduled to be issued on the 28th of May. 13:19:02 13:19:05 13:19:11 13:19:14 13:19:16 13:19:19

This has been the most complete and comprehensive test of OSS ever conducted in this country, probably in the world. But I don't really know what they've done in other countries. 13:19:27 13:19:31 13:19:35 13:19:37

But we have worked very hard with all of the commissions throughout our region and CLECs and other interested parties to build this test and to -- and the ROC, to its credit, operated this test in a completely open manner. 13:19:40 13:19:45 13:19:48 13:19:52 13:19:57

Every issue, every issue in the test design, any party who wanted to have input into the test 13:19:59 13:20:03

design had numerous opportunities to do so. 13:20:06

We had many meetings about it, many workshops to set up the test. 13:20:10 13:20:12

The ROC established a TAG, the technical advisory group, that met once a week to discuss every issue as it came up during the testing. 13:20:15 13:20:18 13:20:22

And all parties were able to and completely welcome to participate in any discussion of any issue that came up. 13:20:25 13:20:29 13:20:33

We've actually had more than a hundred TAG calls since this test started. 13:20:35 13:20:37

We also have had numerous other meetings to discuss issues in more depth as issues came up on TAG calls or in workshops. And in addition to that, the ROC established an open process for discussion of observations and exceptions as they came up. 13:20:39 13:20:41 13:20:46 13:20:52 13:20:55 13:20:59

Observations and exceptions are the process the ROC established. And it's a process that KPMG used in other regions to identify issues that came up in the testing. 13:21:00 13:21:04 13:21:08 13:21:11

When they saw something they didn't expect, a result they didn't expect, they issued either an observation or an exception. 13:21:13 13:21:16 13:21:19

KPMG issued these. HP did as well, so did 13:21:22

Liberty Consulting who handled the performance measure audit. 13:21:26 13:21:30

What observations and exceptions are are 13:21:33

issues that if they weren't resolved could potentially be -- end up as not satisfied criteria in the final report.

In the final report that -- the draft final report that KPMG issued last now two or three weeks ago, KPMG identified well over 500 criteria that Qwest was -- were established for Qwest to meet during the test. Qwest passed over 500 of those criteria. And there only were nine issues that were left as not satisfied. So well over 99 percent of the criteria were met by Qwest.

There were also a group of issues that were categorized as unable to determine. And we can go through those a little bit here today. Most of those or a big chunk of those should be closing with the final, final report because the issue that KPMG is currently testing would conceivably close about half of those unable to determine issues. And then we can talk about the others a little bit as we go along.

What we're here to focus on today are the closed/unresolved observations and exceptions.

And the parties agreed very early, right off the

bat in this test that Qwest had the opportunity to close things unresolved if it deemed further retesting was not going to be productive. 13:23:11 13:23:15 13:23:20

For whatever reason, the parties understood -- and this is a practice that has been followed in other regions. The New York test had a handful of closed/unresolved issues, so did Texas, so did basically other tests across the country. 13:23:24 13:23:26 13:23:28 13:23:33 13:23:37 13:23:41

The way this works is when an observation or exception was issued, Qwest would respond and would either explain why the observation or exception was not a problem or would explain corrective action, including systems changes or process changes that it took to fix problems as they came up. 13:23:43 13:23:45 13:23:48 13:23:52 13:23:55 13:23:59 13:24:03

So with well over 500 of those, Qwest and KPMG reviewed Qwest's response, reviewed the fixes Qwest implemented and was satisfied after retesting or reevaluation, depending on what was appropriate, was satisfied enough to close the exception resolved. 13:24:04 13:24:10 13:24:14 13:24:19 13:24:22 13:24:29

For a handful of issues, Qwest decided to take them as closed/unresolved. And we can walk 13:24:30 13:24:33

through those and explain why. But I want you to understand today that what we're focused on here today are the handful of negative issues that remain from this test. 13:24:36 13:24:40 13:24:44 13:24:50

If you read the draft final report -- and we'll get into this in further detail in the first week of June where we talk about the good things in the draft final report -- basically KPMG has found that we met virtually every criteria established during the test. 13:25:00 13:25:00 13:25:00 13:25:00 13:25:05 13:25:08

And the test was established so all the criteria didn't have to be meet -- met before it was closed. 13:25:10 13:25:12 13:25:15

So with that explanation, I'll go into each test and explain the issues as grouped in each test. There were certain tests -- the overall test was split up into certain other tests. And we'll go through those, and I'll explain those as we move on. 13:25:17 13:25:22 13:25:27 13:25:32 13:25:35 13:25:37

The third page of this handout starts with test 12. Test 12 was probably the most comprehensive and biggest test that was undertaken in the ROC OSS test. 13:25:38 13:25:42 13:25:46 13:25:49

And does anybody need an extra copy of that? 13:25:53

COMMISSIONER LANDIS: I do. I know 13:25:56

I was given one in my office earlier. But I didn't -- how I got out here without it. 13:25:57 13:25:59

MR. CRAIN: Anybody here? 13:26:03

MR. POST: Buster needs one. 13:26:03

COMMISSIONER LANDIS: Did you share this with Mary and Letty? Do they know what you're using here, demonstrative type, whatever it is? 13:26:04 13:26:05 13:26:07 13:26:11

MR. CRAIN: I showed it to them yesterday. 13:26:11 13:26:13

MS. FRIESEN: Yes, we have them. 13:26:14

MR. CRAIN: Okay. 13:26:15

COMMISSIONER LANDIS: Thank you. 13:26:16

MR. CRAIN: KPMG acknowledges in its draft final report that any particular issue should not be focused -- that the reader and decision-makers using the final report should not focus just on certain exceptions or conclusions and each section of the report ought to be viewed as a whole and all of the conclusions viewed collectively. 13:26:33 13:26:34 13:26:37 13:26:40 13:26:46 13:26:52 13:26:56 13:27:00

If you look at test 12, which is the most thorough and comprehensive -- well, most comprehensive and extensive test that was run, this test related to preorder, order and 13:27:02 13:27:05 13:27:09 13:27:12

provisioning, functionality and performance.

Essentially what KPMG tested here was the performance of Qwest's interfaces and ordering processes. Interfaces are the computer interfaces we establish for CLECs to use to get preorder information. They get information about -- about customers as those customers are on the line. And CLECs also use these interfaces to submit orders to Qwest. And Qwest then provisions the orders.

In this test, there were 52 satisfied criteria. There were no -- there were zero unsatisfied -- not satisfied criteria. There were five criteria that were -- that KPMG was unable to determine.

One of those criteria was an issue that was discussed in the TAG, which was FOCs for ASRs. ASRs are a certain type of orders that CLECs submit through a interface called Exact that is not used very often because it only supports certain high-capacity products like interface trunks and that sort of thing.

Because they didn't have a large volume of

these and the test wasn't established to create a large volume of these, they couldn't conclude

whether or not we met the benchmarks for that particular functionality. They did look at other functionalities that were comparable to other products that had a higher volume, and we'll talk about that in a little bit.

Four, the additional four unable to determine observations and exceptions in test 12 related to jeopardy notices. Because Qwest performed well during the test in terms of provisioning the orders that were submitted, there were not many jeopardy notices, not many notices that we were going to miss many orders.

So KPMG was not able to look at enough volume of jeopardy notices to see whether or not we met the benchmarks for those particular functionalities. But it was really a result of the fact that we performed so well overall.

There was -- there were a couple of exceptions relating to test 12 that were closed/unresolved.

Before we get to those, I'd like to explain

just the one not complete criteria that is listed in test 12. That relates to an exception 3120 that KPMG is still retesting. And it relates to certain issues about how we measure our

performance in divisioning certain products.

KPMG found some issues with that. We've implemented changes and fixes, and KPMG is retesting those as we speak and reevaluating those issues as we speak. And that will be concluded in the final, final report.

The exceptions that were -- came up in test 12 that ended up being closed/unresolved are two. The first is exception 3061. Exception 3061 related to firm order confirmations of resale PBX orders.

Firm order confirmations are the messages we send back -- Qwest sends back when we receive a local service request and order from the CLEC. And it confirms that we've received the order, confirms the information on the order and gives the CLEC the due date for the provisioning of that order.

When Qwest and the CLECs negotiated the PID

performance indicator definition relating to POCs, the CLECs and Qwest agreed upon certain disaggregations that we would report and be required to meet in the test. And standards were set otherwise for PAPs and that sort of thing.

The disaggregations didn't get down to the

level of PBX -- resale PBX orders. Resale orders were aggregated at a higher level.

KPMG decided to report this particular issue at the lower level, even though a benchmark wasn't established for this particular product in POCs, the benchmark was established for resale orders as a whole.

If you look at our provisioning and our -- our -- both the data that resulted in the test and the commercial data that we've reported every month, we are meeting this measure at their required disaggregation. We met it in the test for the pseudo-CLEC. And we met it -- we consistently meet it in our commercial results as well.

So this issue really comes down to the fact

that a particular subset of the required disaggregation came in during retesting at about 88 percent rather than 95 percent. But if you look at the disaggregation as -- at the proper level, we met the required benchmark for that disaggregation. 13:32:43 13:32:47 13:32:51 13:32:54 13:32:57 13:33:01

COMMISSIONER LANDIS: Is there any -- is there agreement with that statement by the CLECs or KPMG? You make the statement that 13:33:03 13:33:03 13:33:08

you are, in fact, meeting that; correct, the 90 percent? 13:33:14 13:33:18

MR. CRAIN: Yes. 13:33:18

COMMISSIONER LANDIS: Disaggregated. My question is -- I mean, do we have anything that shows that there's agreement with the conclusion? 13:33:19 13:33:21 13:33:24 13:33:29

MR. CRAIN: Two things. First of all, in the draft final report, if you read that, you'll notice that the standard and the criteria for this particular measure were -- KPMG concluded that we satisfied those criteria. Even though this exception was closed/unresolved, we ended up with no not satisfied criteria in the -- 13:33:30 13:33:31 13:33:38 13:33:42 13:33:46 13:33:48 13:33:53

in test 12 as a whole. 13:33:59

And KPMG acknowledged during TAG 13:34:00

discussions -- all of these issues have been 13:34:03

fully discussed and fully hashed out during TAG 13:34:06

meetings and otherwise during the conduct of the 13:34:10

test. And KPMG acknowledged during some of those 13:34:15

discussions that the PID doesn't actually require 13:34:19

disaggregation to this level. 13:34:22

Turning to the next issue, exception 3086, 13:34:30

this exception is -- relates to our meeting a 13:34:38

certain PID, which is OP-4C, provisioning 13:34:46

commitments met for two products, business POTS 13:34:52

resale and nondispatch UNE-P. 13:34:55

This issue was closed/unresolved by Qwest 13:35:01

for two reasons. First of all, if you look at 13:35:05

our provisioning and performance in test 12 as a 13:35:08

whole, we met virtually every requirement and 13:35:15

virtually every standard in both test 12 and test 13:35:21

14, which is coming up and we'll discuss in 13:35:24

further detail, which is the provisioning test. 13:35:26

So if you look at how we did it overall 13:35:29

during the test, we met some 47 criteria. And 13:35:31

this particular one was closed/unresolved. 13:35:38

Overall, our performance was very good. 13:35:41
Also, as I think was fully discussed here in 13:35:45
other proceedings so I won't get into that in 13:35:48
greater detail, we have also in our commercial 13:35:51
data been performing extremely well with regards 13:35:57
to provisioning of products for CLECs, in 13:36:02
particular UNE-P and business resale. I won't 13:36:06
get into that. But this is one of many measures 13:36:10
in the commercial data world. We are meeting 13:36:14
virtually every measure for provisioning. 13:36:19
This particular measure we have met for 13:36:22
nondispatch business POTS for the last three 13:36:25
months. We missed it last month for UNE-P. But 13:36:28

it was a very small difference, only about a half 13:36:33
of a day, virtually insignificant -- resultant 13:36:36
insignificant number. 13:36:44
If you look at provisioning results as a 13:36:44
whole, which the FCC likes to look at rather than 13:36:46
the test results, if they have -- if they're -- 13:36:46
they are available, we are doing very well in 13:36:49
terms of performance on provisioning. 13:36:52
MR. POST: Mr. Crain the 13:36:55
nondispatch UNE-P, was that the commercial 13:36:56

results missed it last month? 13:36:59

MR. CRAIN: Yes. Moving on then to 13:37:01
the next page, which is test 14, provisioning 13:37:13
evaluation, we satisfied 20 of these -- 20 of the 13:37:15
criteria in this test. And this test related to 13:37:20
the downstream aspect of test 12. Test 12 13:37:25
measured how the interface is performed and the 13:37:30
ordering centers. 13:37:32

This test evaluated how well we did 13:37:34
provisioning the orders that were submitted by 13:37:38
KPMG and HP. 13:37:40

We satisfied 20 of the criteria here. There 13:37:43
are 16 unable to determines listed in the 13:37:47
final -- draft final report. I'd like to explain 13:37:50
those for a minute because it does look like a 13:37:53

big number, but it really isn't as significant as 13:37:55
it looks. 13:37:59

12 of those issues are issues that are 13:38:02
waiting resolution of the one remaining issue 13:38:04
being retested by KPMG, which is exception 3120. 13:38:08
KPMG is doing some further work on that, and 13:38:14
Liberty's doing some further auditing of our PID 13:38:16
as a result of that -- that exception. 13:38:21

As a result of the fact that that work isn't complete, KPMG listed 12 of the criteria under this test as unable to determine. We anticipate that those 12 will be closed in the final, final report. 13:38:26 13:38:29 13:38:33 13:38:37 13:38:40

The other unable to determine listed here, one of them will actually move so that we're -- to another status. So there really are only 15 here. 12 of them will close with the final, final report, we anticipate. 13:38:43 13:38:48 13:38:51 13:38:54 13:38:57

Three of them relate to the same issue I talked about in test 12, which is that because we performed well in provisioning, KPMG didn't have enough and a significant volume enough of missed and delayed orders to make certain conclusions. 13:39:00 13:39:03 13:39:08 13:39:13 13:39:17

So three of the criteria in this test were how well we performed in delayed days; when we 13:39:20 13:39:23

miss an order, how long does it take us to correct that and finally complete the order. Because there were so few misses in the test, there were not -- there was not a large enough volume to conclude -- for KPMG to conclude whether or not we met the benchmark for delayed 13:39:27 13:39:29 13:39:32 13:39:36 13:39:38 13:39:43

days in this test. 13:39:47

There were three not satisfied criteria. 13:39:49

And one of them relates to the issue that KPMG is retesting, 3120. So we'll discuss that at the -- when the final, final report comes out, we'll discuss it in the first week of June. 13:39:54 13:39:57 13:40:04 13:40:06

The other two related to our provisioning of EELs and dark fiber. And because there weren't enough -- there wasn't a high enough volume of EELs and dark fiber during retesting -- let me back up and explain this a little better, I guess. 13:40:08 13:40:13 13:40:15 13:40:19 13:40:23 13:40:25

During the first round of testing, KPMG found some problems with Qwest's provisioning of EELs and dark fiber. The way that these particular products are provisioned necessitated use of voluntary -- volunteer CLECs to submit the orders. 13:40:27 13:40:30 13:40:35 13:40:41 13:40:45 13:40:51

When Qwest implemented fixes and resolved 13:40:53

the issues that were found by KPMG, KPMG couldn't get enough volunteer CLEC orders to reach a statistical conclusion on how well we performed during the retest. So they left those two 13:40:57 13:41:02 13:41:07 13:41:10

criteria as not satisfied. 13:41:13

One of them, the EELs provision, relates to 13:41:19
observation 3054, which we first elected to close 13:41:21
unsatisfied. KPMG found some issues with our 13:41:26
provisioning documents. They went in and did a 13:41:32
really thorough audit of our M and Ps and other 13:41:35
documents related to provisioning and went 13:41:39
through all of our internal documents with a 13:41:42
fine-tooth comb and listed any problems they 13:41:44
found with those documents. 13:41:47

On EEL provisioning, they found some -- they 13:41:49
identified some issues. We resolved those issues 13:41:54
and updated the documentation. But because of 13:42:00
the time and the testing, we decided to close 13:42:03
this one unresolved. 13:42:06

Because KPMG is doing the additional 13:42:08
retesting between the draft final and the final, 13:42:10
final, we've asked them to take another look at 13:42:13
this issue. And they've actually come back and 13:42:16
closed the vast majority of this observation, 13:42:19
identified one additional issue that we're going 13:42:23

to have to work out in the next couple weeks. 13:42:25

But we anticipate that this one will be closed/resolved for the final, final report. 13:42:34

COMMISSIONER LANDIS: We originally concluded that there was just no activity on provisioning of the EELs in Nebraska, I think, earlier. 13:42:34 13:42:36 13:42:40

Now, that picture's changed somewhat very recently. And you had some request for provisioning EELs. Are you looking at these new requests? Are you measuring those against these standards or not? Are you just letting KPMG work through a pseudo-CLEC and -- I mean, you now have some solid requests, it's my understanding, perhaps I'm mistaken there, some requests you could be measuring against these. 13:42:40 13:42:44 13:42:48 13:42:51 13:42:54 13:42:59 13:43:02 13:43:07 13:43:12

MR. CRAIN: We do measure in our performance report our performance for EEL provisioning. And those are included in our performance results every month. I, to be honest, can't tell you what those look like right now. But if you'd like, we can address those in the final, final workshop. 13:43:14 13:43:15 13:43:19 13:43:22 13:43:26 13:43:29 13:43:33

But KPMG actually -- to be included in the test, KPMG had to be there to watch the order and 13:43:35 13:43:39

everything from the beginning to the end. So those orders aren't going to be included in the test results, but they will be reported in our performance measure results. 13:43:45 13:43:47 13:43:51 13:43:54

COMMISSIONER LANDIS: My question is, I think you've answered it, is, you do have some experience in Nebraska and you are reporting those results to Mr. Palazzolo or Mr. Hand or somebody monthly? 13:43:56 13:43:57 13:43:59 13:44:02 13:44:07

MR. CRAIN: That's correct. 13:44:08

COMMISSIONER LANDIS: That's how they're being measured and everything? 13:44:08 13:44:09

MR. CRAIN: We file monthly, and they're publicly available on our website. 13:44:12 13:44:13

COMMISSIONER LANDIS: Okay. Thank you. 13:44:15 13:44:16

MR. CRAIN: Sure. So that's it for test 14. 13:44:16 13:44:20

Test 16 is the functional and performance evaluation for what is known as CEMR. CEMR is an acronym that I don't even know what it stands for, but it is our interface -- graphical user interface. Its web base is basically like a GUI. It's like a windows-based system for CLECs to use to submit trouble reports when they find problems 13:44:26 13:44:28 13:44:34 13:44:36 13:44:41 13:44:46 13:44:50

that need to be repaired. 13:44:54

KPMG did a thorough evaluation of that 13:44:57
interface, identified numerous problems which we 13:44:59
fixed and resolved. And, overall, our 13:45:04
performance on retesting and our performance of 13:45:09
this interface right now is excellent. 13:45:11

We satisfied 27 of the criteria in the draft 13:45:15
final report. 13:45:19

There was one criterion that was not 13:45:20
satisfied. And that related to exception 3107. 13:45:25
Exception 3107 was relating to the volume test, 13:45:32
the capacity test of test 16. Test 16 had two 13:45:37
phases, one -- two big parts. One was an overall 13:45:45
analysis of how the interface performed on a 13:45:48
normal basis. But KPMG also conducted a capacity 13:45:51
test to this interface to make sure that it could 13:45:55
handle reasonably foreseeable demands. 13:45:58

There were 13 benchmarks that were set that 13:46:03
we needed to meet during the capacity test. 13:46:06
Those are essentially benchmarks for returning 13:46:13
certain notices and returning information for 13:46:16
certain requests. 13:46:19

During the normal volume test that -- the 13:46:22
capacity test is broken down into three phases. 13:46:28
One is the normal volume. One is a peak volume, 13:46:30

CONTINUATION

[7]

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which is a higher volume. One is a stress volume, which is even a higher volume than that. 13:46:32 13:46:35

The -- during -- at the normal level, we met all 13 of the required benchmarks. 13:46:38 13:46:43

At the peak volume, the higher volume, we met 12 of the 13 benchmarks and missed one of them, nondesign edit transactions, by 3 seconds. We returned them in 27 seconds rather than 24. 13:46:47 13:46:50 13:46:55 13:46:58

And the stress test, even though there weren't actual benchmarks set, it was a diagnostic test just to make sure things didn't really fall apart. We performed at virtually the same level that we did on the peak test, which is we met 12 of the 13 benchmarks. 13:47:03 13:47:05 13:47:07 13:47:10 13:47:14 13:47:16

So overall, if you look at our performance on this test, it really was excellent. There's really no issue that this interface can handle reasonably foreseeable demand. 13:47:20 13:47:23 13:47:25 13:47:29

The one transaction that was missed, if you look at the amount of those transactions we get in real life, they make up about half of a percent of the M and R transactions like this we receive in real life. So the one particular benchmark we met or we missed by a little bit 13:47:31 13:47:35 13:47:40 13:47:42 13:47:47 13:47:51

really isn't very -- used very much in real life. 13:47:56

So I really don't think there's any issue here in the long run to look at whether or not this interface can handle reasonably foreseeable demand. This test demonstrated that it can. 13:47:59 13:48:06 13:48:06 13:48:08

MR. POST: Mr. Crain, can you kind of give the commission a feel maybe in this case and if there's other cases like it the difference between what are typical normal volumes and what may have been tested as peak volumes, if there is a distinction? Whenever that's relevant, if that could be cleared up for the commission, that might be helpful. 13:48:10 13:48:12 13:48:13 13:48:16 13:48:19 13:48:22 13:48:26 13:48:28

MS. NOTARIANNI: Okay. I apologize. This is Lynn Notarianni. I don't have the actual numbers of transactions. But relatively speaking, what they did, which was similar to the preorder and order capacity test is they ran the normal test at a volume projection that would have been approximately, you know -- I believe at the time would have been what the forecasted level of activity would have been for about March 2002. Then the peak test 13:48:29 13:48:29 13:48:32 13:48:35 13:48:38 13:48:42 13:48:46 13:48:51 13:48:54 13:48:57

was 150 percent of the normal volume. And then the stress test was 250 percent of the normal volume. 13:49:02 13:49:06 13:49:09

I believe that for this particular transaction, the peak volume, to tell you how new it is, was roughly 30 transactions. 13:49:11 13:49:12 13:49:17

MR. POST: The percentage is actually what I was looking for. Just so they have a feel that the peak is going to be, you know, like, a hundred-year flood or something like that, that it isn't something that would normally be experienced. Okay. 13:49:20 13:49:20 13:49:22 13:49:24 13:49:26 13:49:28

MS. NOTARIANNI: Right. 13:49:31

MR. POST: Thank you. 13:49:32

MR. CRAIN: Moving on then to test 18 which is end-to-end trouble report processing, this -- in this test KPMG fully evaluated our ability to handle trouble reports as we received them, get the tickets from CLECs, figure out what the problem is and then fix the problem as it -- and then report back to the CLEC the resolution of all that work. 13:49:35 13:49:36 13:49:40 13:49:44 13:49:51 13:49:55 13:49:59 13:50:02

There were 10 satisfied criteria here in the draft final report. KPMG listed one criteria as unable to determine and two as not satisfied, though one unable to determine and one of the not satisfied both relate to the same issue and the same exception. This is exception 3055. 13:50:05 13:50:09 13:50:14 13:50:19 13:50:23 13:50:26

In that exception KPMG looked at the information we provided back to the pseudo-CLEC once we were done repairing the fault and fixing the problem and verified we had the accurate what is called close-out code on the notice that we sent back. And these close-out codes are fairly long. They contain many different indicators. So if there was anything wrong in those close-out codes, KPMG counted that as a miss against Qwest and set a 95-percent benchmark for Qwest to meet here, benchmark that wasn't negotiated to set up the test and wasn't part of the PID. It was unilaterally established by KPMG. 13:50:32 13:50:38 13:50:41 13:50:45 13:50:52 13:50:55 13:50:59 13:51:04 13:51:06 13:51:12 13:51:19 13:51:23 13:51:25

But the really important thing to know in this exception is, really, that the issue that was identified by KPMG shouldn't have any real impact in real life on CLECs. 13:51:28 13:51:30 13:51:33 13:51:37

First of all, we've implemented new processes and procedures to make sure we do this particular coding a little better in the future. But for the vast majority of problems they found, they found problems with the last couple of digits in the close-out codes rather than the first couple of the digits. The first couple of digits are the ones that count. They are the

ones that say is this Qwest's fault or was this a CLEC-caused problem.

And essentially if it's a CLEC-caused problem, Qwest then would charge the CLEC for that -- for its work in handling that trouble -- trouble ticket. The vast majority of times, it's coded as a Qwest issue; and the CLEC isn't charged.

So the issue of is Qwest being paid isn't really impacted by -- or is the CLEC being charged isn't really impacted by these close-out codes.

The other thing to note in terms of our provisioning here is that we are performing -- and I think we've -- this commission has gone

through this in detail -- very well overall in our maintenance and repair provisioning as well. 13:52:53 13:52:55

Moving on to the next issue, exception 3058, this, once again, relates to a benchmark that was unilaterally established by KPMG. And in this particular case, KPMG established a benchmark that said we need to fix and in a way that KPMG thought was the way to do it the problems -- they went out and induced problems in our network and then figured out if we fixed those problems 13:53:03 13:53:07 13:53:11 13:53:18 13:53:20 13:53:27 13:53:31 13:53:42

correctly. And if we did something that they considered to be wrong, they counted it against us and set a 95-percent rate for us to meet to -- in terms of fixing the problems. 13:53:42 13:53:42 13:53:45 13:53:51

The CLECs and Qwest in establishing the test actually negotiated specific PID relating to this issue MR-7, which is repair repeat reports. It's the only way to really measure this in real life, which is if you do something -- if you fix this or don't fix the problem, the customer's going to call in another repair ticket. 13:53:54 13:53:57 13:54:01 13:54:06 13:54:08 13:54:11 13:54:15

So what that measure does in real life is measured that issue, and the standard set with 13:54:21 13:54:24

the -- with the CLECs was parity with retail. 13:54:28
We've met that measurement in the test for 13:54:32
the entirety of the test. And we met that 13:54:35
measurement here in -- in Nebraska consistently. 13:54:38
We met it for the last four months in POTS 13:54:45
and UNE-P, dispatched orders or trouble tickets; 13:54:48
and then nondispatched trouble tickets, we've met 13:54:51
it in 11 of the last 12 months. 13:54:55
Even during the test where we missed KPMG's 13:54:58
benchmark, we only missed it by a little bit. 13:55:02
The 95-percent benchmark was established by KPMG. 13:55:04
And we came in at about 92.28 percent. So -- 13:55:09

COMMISSIONER LANDIS: What's the 13:55:14
significance of the -- the customer has to call 13:55:15
in; right? 13:55:17
MR. CRAIN: That's correct. 13:55:18
COMMISSIONER LANDIS: And KPMG said 13:55:21
regardless of whether they call or not, we still 13:55:23
want it repaired within a certain length of time, 13:55:26
or is that -- 13:55:28
MR. CRAIN: What KPMG did was -- 13:55:29
and KPMG's issue with using this measure was that 13:55:32
they called in the troubles themselves. They 13:55:39

submitted trouble reports. So there really 13:55:41
wasn't an end user customer to call in originally 13:55:43
or to submit a second trouble report. 13:55:49
So rather than -- what KPMG did was issued 13:55:53
observations and exceptions when they saw a 13:55:59
problem rather than issuing new trouble reports. 13:56:00
So KPMG technically didn't resubmit trouble 13:56:03
reports if we didn't correct them right the first 13:56:11
time. So rather than just counting the number of 13:56:12
times they -- that we missed something as 13:56:15
technically them resubmitting an order, they 13:56:19
established this 95-percent benchmark. Test -- 13:56:22
COMMISSIONER LANDIS: I guess I -- 13:56:34
I don't want to prolong this, but obviously 13:56:34

you've had a collaborative effort. I'm 13:56:36
wondering, why is it necessary to call back in 13:56:39
order to trigger a measurement of how quickly you 13:56:42
repaired it? I mean, isn't that the measurement? 13:56:46
You get a trouble report, how long does it take 13:56:49
me to fix that line and then parity between my 13:56:51
customer and the CLEC customer. 13:56:57
MR. CRAIN: There are a variety of 13:56:59

measurements that relate to our performance in maintenance and repair. One of them is how quickly we repaired a fault as we receive a trouble ticket. That's not what we're dealing with here. 13:57:00 13:57:06 13:57:09 13:57:14 13:57:16

COMMISSIONER LANDIS: Fine. 13:57:16

MR. CRAIN: What we're dealing with here is did you fix it right the first time. And to measure that, the only way to really measure it is to get somebody to call in again. 13:57:17 13:57:18 13:57:21 13:57:24

COMMISSIONER LANDIS: Is to get the call back. Now I understand. Thank you. 13:57:27 13:57:28

MR. CRAIN: Okay. Test 23 is something I will skip over because we will be dealing with that in the second half of this presentation relating to change management. There's one closed/unresolved observation -- or 13:57:29 13:57:31 13:57:34 13:57:36 13:57:40

exception in test 23 that I'll handle during our second hour here today. 13:57:43 13:57:47

Test 24.6 is the final test that has any closed/unresolved observations or exceptions. This is a test of how well we assist CLECs in building to our EDI interface, actually, two 13:57:49 13:57:56 13:58:01 13:58:05

interfaces, our EDI interface, which is the computer-to-computer interface, which essentially hooks up a CLEC's back-end system with our back end system so that they can get preorder information and submit orders as well. 13:58:11 13:58:13 13:58:17 13:58:21 13:58:24

They also looked at -- but at a less detailed level -- the EB-TA interface, which is the maintenance and repair interface which does pretty much the same thing. It hooks up the back-end system of the CLECs and our back-end system so they can automatically send trouble reports to us and get information about trouble reports as well. 13:58:27 13:58:31 13:58:35 13:58:38 13:58:42 13:58:45 13:58:48 13:58:51

We satisfied 46 of the criteria in this test. And this whole test, it's a very complex process building a interface -- for a CLEC to build an interface to our computer-to-computer interfaces. We have a vast amount of information we provide to CLECs for building those 13:58:54 13:58:57 13:59:02 13:59:06 13:59:09 13:59:18

interfaces. We also have dedicated teams of people who assist CLECs in doing -- in building those interfaces. 13:59:18 13:59:19 13:59:24

KPMG and HP both evaluated this thoroughly 13:59:27

and concluded that we do assist and that we do meet 46 of the criteria here. 13:59:34 13:59:39

And one of the important things to remember is that HP successfully built to our EDI interface at least three times -- I think it says four in this document. It's actually to three of our releases. So HP, there's no doubt HP proved that a CLEC coming in to our region can successfully build to our interfaces and could successfully build to interfaces as they change as well as new releases come out. 13:59:41 13:59:43 13:59:52 13:59:55 13:59:57 14:00:01 14:00:05 14:00:08 14:00:12

COMMISSIONER LANDIS: What was the cost of that undertaking? 14:00:15 14:00:15

MR. CRAIN: For HP to do it? 14:00:17

COMMISSIONER LANDIS: Yes. Anybody to do it. I just want -- if you know. 14:00:20 14:00:21

MS. NOTARIANNI: Yeah. This is Lynn. The cost can vary quite a bit, depending on whether a CLEC decides to do the development completely themselves or whether they go through a software vendor that we refer to as a service 14:00:25 14:00:26 14:00:29 14:00:31 14:00:34

bureau. And sometimes those service bureaus already have component pieces already built that 14:00:37 14:00:40

they just then work with the CLECs and kind of recertify and retest the interface to us and they're ready to go. 14:00:42 14:00:46 14:00:49

If -- and this -- again, this is my estimate, not having any cost information from the CLECs or -- and I don't have information even from HP that would split out just that piece of the work that HP did. But I would say on the low end, you're probably at -- probably $100,000 or more. And at the high end, depending on if you build to the full suite of functionality, if you say it takes, you know, 10 man years of time, 10 developers' time for a year, generally they can -- at the quickest, they could probably build this in about three months. But let's say they're building a pretty big breadth of it, a million dollars. 14:00:53 14:00:56 14:00:59 14:01:02 14:01:06 14:01:12 14:01:20 14:01:24 14:01:27 14:01:33 14:01:36 14:01:38 14:01:40 14:01:43

It can be extensive if you do the full package. And it, again, depends on how they go about their development. 14:01:45 14:01:48 14:01:52

COMMISSIONER LANDIS: Okay. Thank you, Lynn. 14:01:54 14:01:55

MR. CRAIN: One aspect of this 14:01:57

development of interfaces is what KPMG focused on for the two not satisfied criteria which relate to actually three separate exceptions that were closed/unresolved. And that is the testing environment that Qwest provides to CLECs when they are in the process of developing their interfaces. 14:02:00 14:02:06 14:02:09 14:02:13 14:02:17 14:02:21 14:02:25

We have actually two separate test environments for CLECs to use. One's called interoperability testing; and then as a result of some of the issues that came up in the testing and in other places, we developed a stand-alone test environment called SATE, stand-alone test environment, SATE. KPMG found some issues with SATE. It's a fairly new test environment. 14:02:26 14:02:29 14:02:32 14:02:35 14:02:36 14:02:40 14:02:45 14:02:50

We have done some extensive revisions to that environment to address many of KPMG's concerns. These were closed/unresolved because a couple of pieces of that development are going to happen in the future so that KPMG wasn't able to review completely that additional future development. 14:03:00 14:03:03 14:03:06 14:03:09 14:03:11 14:03:15 14:03:18

We have 29 CLECs in total who have built to our EDI interface. 10 of them have used the SATE environment and successfully used SATE to test 14:03:20 14:03:24 14:03:31

and to develop their EDI interfaces. 14:03:37

26 CLECs have successfully used the 14:03:40
interoperability environment, our older 14:03:45
environment, to go into production with your EDI 14:03:51
interface. So if you look at what happens in 14:03:53
real life, there's really no issue that CLECs and 14:03:55
HP has demonstrated that can efficiently build 14:03:58
and efficiently develop EDI interfaces within 14:04:03
Qwest's region. 14:04:07

Exception 3077 was the first exception 14:04:10
relating to the SATE environment. And in this 14:04:14
that exception, KPMG identified a whole host of 14:04:20
issues with the environment. And it really came 14:04:23
down to the big issue was is it what KPMG called 14:04:27
a real-world test environment. 14:04:33

And a couple of the issues that KPMG came up 14:04:35
with were that the -- originally orders and 14:04:39
preorder transactions didn't automatically flow 14:04:44
through and get a response automatically 14:04:49
generated back because it was a separate test 14:04:53
environment, and we didn't have -- we didn't go 14:05:01
out and rebuild all of our back-end systems. 14:05:01
Some of the transactions -- or the transactions 14:05:04
were being sent by a person on the other side. 14:05:08

When KPMG identified this issue, we have 14:05:11

developed flow-through capability. It has been deployed in the western region. And it's being deployed in the eastern and central region, including in Nebraska in mid May. 14:05:17 14:05:18 14:05:21 14:05:22

A couple of the other issues that came through -- that were identified by KPMG here related also to the kind -- whether or not the transactions generated back were exact matches to transactions that a CLEC would see in the real world. And in the vast majority of times, that is the case. 14:05:27 14:05:29 14:05:36 14:05:40 14:05:45 14:05:48 14:05:51

There are some transactions that are necessarily a little different. And we do publish that information to CLECs so that when they're developing it to EDI, they understand that and when they're using these test transaction environments, they understand that. 14:05:53 14:05:56 14:05:58 14:06:02 14:06:05 14:06:08

The next exception, exception 3095, relates to the fact the SATE that -- the stand-alone test environment, does not support every single UNE product or resale product that is supported by the EDI interface. 14:06:11 14:06:16 14:06:21 14:06:26 14:06:28

We developed SATE. And there are, frankly, some products that we technically support on our 14:06:35 14:06:38

25 EDI interface that CLECs never order and probably 14:06:45

1 never will. Things, like, stand-alone switching, 14:06:47
2 there's just really not a whole lot of reason for 14:06:51
3 a CLEC to ever order that product. 14:06:53
4 What we did is we developed the stand-alone 14:06:57
5 test environment and provided the capability to 14:07:00
6 test all products that CLECs had built EDI 14:07:05
7 interfaces to. 14:07:08
8 So any product and transaction that CLEC had 14:07:10
9 built EDI interface -- EDI interfaces to, we made 14:07:12
10 sure that SATE supported those products and 14:07:18
11 transactions. 14:07:21
12 We've also worked out a process with CLECs 14:07:22
13 to allow them to submit change requests through 14:07:25
14 our change management process. And Qwest and the 14:07:29
15 CLECs jointly prioritized change requests to the 14:07:32
16 SATE environment, including addition of new 14:07:35
17 products. 14:07:39
18 When this exception came out, Qwest issued 14:07:40
19 change requests for all of the additional 14:07:46
20 products that SATE didn't support. The vast 14:07:49
21 majority of those were prioritized extremely low 14:07:54

by the CLECs. Two of them were prioritized fairly high. And those are scheduled to be included in our EDI 11.0 release. The final exception -- and I think I'm

meeting my time limit here --

COMMISSIONER LANDIS: I've been watching.

MR. CRAIN: But I shouldn't get too -- I shouldn't say that. I'll jinx myself. Final exception is exception 3109, which relates to our -- one more thing on the last exception. Even those products that are not supported in SATE, every single product is supported in the interoperability environment the 26 CLECs have successfully used. So even for a product that isn't in SATE, the other test environment is available.

MR. POST: Mr. Crain, are those options, SATE, the interoperability, mutually exclusive? Or can they use a combination of all of those?

MS. NOTARIANNI: This is Lynn. Essentially there's -- there is a three-step

process that we use for testing. First, they establish network com activity with us. Then that second phase is actually where the interoperability testing and SATE piece come in. 14:09:11 14:09:14 14:09:18 14:09:20

The CLECs -- and this is also explained in published documentation to the CLECs -- can use 14:09:25 14:09:28

one or both of those in order to move to the final step where they actually test orders in production to make sure that it -- that their interface is ready to go. 14:09:31 14:09:34 14:09:37 14:09:40

And so we have -- I'm not sure we've ever had any CLECs yet use both of them within the same software release and do testing in both of them. But they certainly can. 14:09:41 14:09:45 14:09:51 14:09:53

And given the nature of the way the inter -- the test environments were established, SATE is primarily used when a CLEC is trying to develop their own EDI software, where interoperability testing is often used once they're ready to test with us. 14:09:56 14:10:00 14:10:04 14:10:06 14:10:10 14:10:13

It would make sense to me if I were a developer to actually use a combination of both of those if you really wanted to be solid and 14:10:13 14:10:16 14:10:18

make sure your interface was ready to go. They have an option of doing either one; and we'll allow them to go to the next step, having kind of passed the exit criteria for either or both of those. 14:10:20 14:10:22 14:10:24 14:10:25 14:10:28

MR. POST: Thank you. 14:10:28

MS. NOTARIANNI: Sure. 14:10:29

MR. CRAIN: So the final exception, 14:10:32

exception 3109, relates to our EB-TA environment or interface for maintenance and repair. 14:10:33 14:10:43

This is a computer-to-computer interface that's used by several CLECs to submit trouble reports to Qwest. 14:10:44 14:10:47 14:10:51

And KPMG had an issue with the fact that the test environment for this particular interface included some transactions that went into actual back office systems. Because we hadn't developed a complete copy of all of our downstream systems, we, during this kind of testing, allowed a couple of transactions to go into one of the back-end systems; and they are automatically stopped at a certain point in the back-end system. 14:10:54 14:10:59 14:11:04 14:11:09 14:11:12 14:11:16 14:11:19 14:11:23 14:11:26

So to the extent that the CLECs are looking 14:11:29

for real-life experience, there's nothing more 14:11:32
real life than that. 14:11:36
But two issues on this. First of all, CLECs 14:11:37
have proven that you can successfully develop 14:11:43
using the test environments Qwest provides to our 14:11:48
EB-TA interface. Probably the most important 14:11:53
issue for your consideration here today is that 14:11:57
the FCC in the Texas order clearly stated that 14:12:02
this interface itself, electric bonding, 14:12:06
computer-to-computer interfaces for maintenance 14:12:10

and repair, are not required for the purposes of 14:12:13
271. 14:12:17
So if the interface itself is not required, 14:12:19
then clearly the test environment issue should 14:12:21
not hold up any 271 application. 14:12:26
That is it. There's one additional 14:12:33
observation -- I mean, exception that we will 14:12:34
discuss later in the change management test. But 14:12:37
I guess the thing I would stress is we've tested 14:12:42
for two years. We've done the most thorough 14:12:49
comprehensive test in the country. CLECs have 14:12:52
had opportunities on these exceptions and on 14:12:56
every other issue that came up to fully air any 14:13:00

issue that came up during the ROC testing. 14:13:03
And we've gone through that testing. We've 14:13:08
passed it. We've passed well over 500 criteria. 14:13:09
All you see left are these handful of open 14:13:14
observations and exceptions or closed/unresolved 14:13:16
observations and exceptions. And none of them 14:13:20
rises to the level of anything that you ought to 14:13:22
be concerned about when reviewing our application 14:13:25
and determining whether or not we provide 14:13:30
nondiscriminatory access to OSS. 14:13:32
COMMISSIONER LANDIS: Okay. Thank 14:13:35
you, Mr. Crain. Any questions of Mr. Crain 14:13:36

before we move to Mary? And then we'll -- Chris, 14:13:39
if you or Buster have some observations after 14:13:42
Mary's spoken, you may do so at that time. 14:13:45
Okay. Mary. 14:13:50
COMMISSIONER LOWELL JOHNSON: She 14:13:54
has 10 minutes? 14:13:54
COMMISSIONER LANDIS: No. Mary has 14:13:55
an hour. And we'll give Qwest another 10 minutes 14:13:56
after Mary's. 14:14:00
MS. TRIBBY: Thank you, 14:14:01

Commissioner Landis. Should I go ahead? 14:14:02
COMMISSIONER LANDIS: Yes, Ma'am. 14:14:03
Everybody here? If you -- Lowell, if you want to 14:14:03
move closer down here to Mary. 14:14:07
COMMISSIONER LOWELL JOHNSON: No. 14:14:09
I'm okay. 14:14:10
COMMISSIONER LANDIS: Chris, you're 14:14:11
able to hear? 14:14:11
MR. POST: I'm fine. 14:14:13
COMMISSIONER LANDIS: Go ahead, 14:14:14
Mary. 14:14:14
MS. TRIBBY: Thank you. 14:14:15
Commissioner Landis, I'm having a little bit of 14:14:16
trouble hearing you; and because there's kind of 14:14:18
a delay on the phone, if you guys want to 14:14:20

interrupt to ask a question, please just keep 14:14:23
trying until I stop. 14:14:26
COMMISSIONER LANDIS: All right. 14:14:27
MS. TRIBBY: I don't think I'll 14:14:30
need a whole hour either, so hopefully that will 14:14:30
help with the time this afternoon. 14:14:34
With respect to the observations and 14:14:38
exceptions that are open and with respect to the 14:14:38

test as a whole, I would just say, you know, I agree with Andy that this has been an extensive test and Qwest has I think worked hard to fix a number of things that have been identified. And we -- we commend them for that. And I think their systems have gotten better through this test. 14:14:41 14:14:45 14:14:48 14:14:51 14:14:54 14:14:57 14:14:59

There are, however, as we're discussing today, some areas where Qwest determined they would proceed even though problems that were identified by the vendors were not fixed. And we do think that those are worthy of the commission's attention, and you need to look carefully at those when making your final determination. 14:15:01 14:15:02 14:15:07 14:15:10 14:15:15 14:15:17 14:15:20 14:15:23

One -- one thing to point out is that in the -- I think the seven observations and 14:15:25 14:15:29

exceptions that don't relate to CMP, the ones that I'm going to discuss, six of those seven are exceptions and not observations. And exceptions are more significant as a general matter than are observations. 14:15:32 14:15:36 14:15:40 14:15:46 14:15:49

For example, Andy was just discussing 14:15:51

exception 3120 that KPMG has issued recently. And that exception started out as a couple of observations. And KPMG decided to close those observations and, in their words, escalate the unresolved issues to exception. 14:15:54 14:15:59 14:16:03 14:16:08 14:16:19

So I think the fact that Qwest has chosen to take a closed/unresolved on some exceptions as opposed to observations is somewhat significant. 14:16:19 14:16:19 14:16:21

I also think that the fact that KPMG who has been a vendor across the country believed these problems they were identifying were significant enough to warrant the opening of an observation or an exception is important to focus on. They could have agreed with Qwest that the problem was sufficiently solved and closed these as resolved. But they chose not to do that. 14:16:25 14:16:30 14:16:34 14:16:36 14:16:38 14:16:45 14:16:49 14:16:53

Andy commented a couple of times about the fact that these observations and exceptions have been discussed among the TAG and the opportunity 14:16:56 14:16:58 14:17:03

to -- given to comments. And I would certainly agree with that. 14:17:06 14:17:09

That doesn't mean, though, that there's always been agreement or that the issues being 14:17:10 14:17:13

raised by the CLECs have necessarily been taken into account in the final disposition. 14:17:17 14:17:20

I think it is true that we've had an opportunity to file our comments. But that doesn't mean -- I don't think you should take that to mean that all issues are resolved. 14:17:23 14:17:24 14:17:28 14:17:30

There are times when Qwest says where they've taken something of closed/unresolved that you should look at commercial performance results instead. And I think that those can also be useful. 14:17:35 14:17:38 14:17:41 14:17:43 14:17:47

We had a hearing a few weeks ago in Nebraska with respect to commercial performance results. And I think those do help to tell the story about Qwest's performance. Although, there are a number of products, as we discussed previously, where there's not a lot of volume in Nebraska and particularly in those cases I think the results found in the OSS tests do provide a backup for Nebraska in addition to what they have for their own performance results in the state. 14:17:48 14:17:51 14:17:53 14:17:55 14:17:58 14:18:02 14:18:08 14:18:10 14:18:13 14:18:16

Andy discussed a little bit exception 3120, which is the subject of a number of the 14:18:21 14:18:25

observations and exceptions that are still open that have not been satisfied. And I think that observation -- that exception is important to focus on because it relates specifically to the reliability and accuracy of Qwest's commercial performance data, which is one of the things that Qwest is asking you today to look at where they have decided to take an observation or an exception of closed/unresolved. 14:18:30 14:18:32 14:18:37 14:18:40 14:18:48 14:18:52 14:18:54 14:18:57 14:18:59

And I know we'll discuss this exception in the future when we talk about the OSS test. But because it has to do with a number of these observations, I think it's important just to be aware of it. 14:19:02 14:19:04 14:19:08 14:19:10 14:19:13

And what it is is there were two observations leading up to this exception which remains open, one of which found data integrity issues with Qwest's calculation of their PID results. 14:19:14 14:19:17 14:19:20 14:19:25 14:19:29

And what KPMG found, "The impact of that observation, which is now an exception, was without accurate recording of PID results, regulatory commissions and CLECs have no way of 14:19:30 14:19:34 14:19:37 14:19:40

knowing if Qwest is providing an environment in which CLECs are able to compete. Additionally, assuming eventual 271 release is granted to Qwest, accurate PID data will be required by the regulators to insure that there is no backsliding by Qwest once it is allowed to reenter the in-region long-distance market." 14:19:43 14:19:45 14:19:50 14:19:53 14:19:57 14:20:00 14:20:05

COMMISSIONER LANDIS: Mary, Frank Landis, can I ask a question? How does the Liberty audit process apply to the issue you're raising here? You're talking about the integrity of the data. I thought that was -- I thought that's what Liberty was supposed to be auditing or checking. 14:20:08 14:20:10 14:20:12 14:20:16 14:20:20 14:20:22 14:20:25

MS. TRIBBY: Commissioner Landis, it was. And that was one of the reasons why when we were before you on the -- in the performance workshop, we thought it was important to wait for KPMG's evaluation because Liberty took a number of products in a number of states with a few CLECs that were willing to participate and did a data reconciliation effort. It's certainly that useful instructive with respect to the accuracy and the reliability of Qwest's data. 14:20:27 14:20:29 14:20:32 14:20:34 14:20:38 14:20:42 14:20:47 14:20:49 14:20:54 14:20:56

As you know, as we brought out at the 14:20:59

hearing, we don't think Liberty went far enough in assuring itself that the data problems have been cleared up. And what we now have -- by the way, the Liberty audit looked at data in the January to June of 2001 timeframe. 14:21:01 14:21:04 14:21:07 14:21:11 14:21:14

COMMISSIONER LANDIS: Okay. 14:21:18

MS. TRIBBY: It did not, for the most part, look at any more recent data than that. That was an agreed-upon interval by the parties. 14:21:19 14:21:20 14:21:23 14:21:25

What KPMG is now doing as part of its testing obligations is doing its own reconciliation of the pseudo-CLEC data that it produces with -- or that HP produces with the pseudo-CLEC data that Qwest produces. And in comparing that and doing a reconciliation similar to what Liberty did, they are now doing their own analysis of the reliability and accuracy of Qwest's data. 14:21:27 14:21:30 14:21:33 14:21:43 14:21:43 14:21:45 14:21:47 14:21:51 14:21:55

COMMISSIONER LANDIS: That's helpful. Thank you, Mary. 14:21:58 14:21:59

MS. TRIBBY: And what they found in the second observation that led to the open exception is out of 240 orders reviewed, 25 were mishandled in the calculation of the OP-4 PID, 14:22:01 14:22:01 14:22:04 14:22:09

according to KPMG Consulting's determination. If these determinations are correct, this issue has an impact on the accurate reporting of PID results. 14:22:13 14:22:17 14:22:20 14:22:22

And I bring that up because I think it is important to recognize that although Qwest's commercial performance results are instructive, there are some problems that have been identified with those results. And I think that's part of the reason that third-party testing, observations and exceptions and conclusions are so important and important for the commission to look at. 14:22:23 14:22:26 14:22:29 14:22:32 14:22:36 14:22:39 14:22:44 14:22:47

The discussion that Andy had a little bit about the unable to determine, I don't plan to spend a lot of time on those today because, as he indicated, hopefully many of those will be closed by the time of the final test. If they're not closed, I'm sure we'll be discussing them at the hearings or proceedings in early June. 14:22:50 14:22:52 14:22:55 14:22:58 14:23:01 14:23:04 14:23:07

Let me go through real briefly our views on the exceptions and the one observation that Qwest has taken of closed/unresolved. 14:23:13 14:23:19 14:23:23

First of all, under the provisioning test, 14:23:27

Andy discussed exception 3061, which has to do with the issue of the firm order confirmations. 14:23:32 14:23:36

And as we talked about a number of times before, firm order confirmations are certainly very important to a CLEC's ability to communicate with their customers and important when a customer is looking for a competitive experience and comparing the experiences that they can get. 14:23:40 14:23:43 14:23:47 14:23:50 14:23:54 14:23:56

The benchmark that was being worked or looked at here was resale PBX. And these BOCs were to be returned within 48 hours at 90 percent of the time. Qwest had made 72 percent of the time the first half, 85 percent of the time on retest, I believe it was. 14:24:01 14:24:05 14:24:13 14:24:17 14:24:22 14:24:25

One thing that is important to realize with respect to all of these observations and exceptions I think is that where there is a benchmark established of 90 or 95 percent or 92 percent, Qwest's performance already gets the benefit of the doubt. In other words, no one is asking for them to achieve perfection. The benchmark acknowledges that they can miss 5 to 10 percent of the time and still make their 14:24:28 14:24:31 14:24:32 14:24:36 14:24:43 14:24:45 14:24:47 14:24:50 14:24:54

obligations. 14:24:57
But what Qwest is saying today is that even 14:24:58
where we didn't meet those, we missed them by a 14:25:02
fairly insignificant amount so you shouldn't 14:25:06

penalize us for that, that we see those as 14:25:09
insignificant. 14:25:12
And I would just say to that that they've 14:25:13
already been given a break with respect to what 14:25:15
the benchmark is and no one is asking them to 14:25:18
achieve perfection. So I think to argue further 14:25:21
that even though the benchmark should be 14:25:24
disregarded or overlooked when it's missed by a 14:25:27
few percentage points is not exactly how -- 14:25:30
certainly how AT & T looks at it. 14:25:35
What Qwest has said with respect to their 14:25:39
misses on these FOCs is that resale PBX by itself 14:25:42
is not an important service -- or it's not 14:25:47
critical to their ability to satisfy their 14:25:50
obligations and if you aggregate all of their FOC 14:25:53
performance, then they meet the benchmarks. 14:25:58
And I guess what I would say to that is, 14:26:01
first of all, there's very little PBX resale in 14:26:04
Nebraska. So you don't have another data point 14:26:08

to look at to see how Qwest is doing with respect to this. You are sort of in the position of relying on the test results. And what the test results before you have found is that Qwest did not satisfy the benchmarks that were set for this product. 14:26:11 14:26:16 14:26:18 14:26:21 14:26:24 14:26:28

I'd also say that, you know, resale PBX may not seem standing alone like a critical product unless you happen to be a CLEC who is planning on using that for your sole or one of your several entries into the marketplace. And I just don't think that any of us are in a position to say today whether that may be the case in the near future. So I do think it's important to look at that miss. 14:26:30 14:26:34 14:26:38 14:26:40 14:26:45 14:26:47 14:26:50 14:26:54 14:26:57

The other exception that Andy commented on with respect to the provisioning test was 3086. And this, again, I think is a very important exception. 14:26:58 14:27:04 14:27:09 14:27:12

What KPMG found is that in -- when looking at installation intervals -- this is critical. I think installation commitments met and installation interval are some of the PIDs that 14:27:14 14:27:23 14:27:23 14:27:24

are probably most reflective of what a CLEC's actual experience is because, again, if a customer's able to shop around and get better intervals or better service from Qwest than they can get from new CLECs in the market, the chances are that it's going to be difficult for a CLEC to win those customers over. 14:27:27 14:27:31 14:27:33 14:27:38 14:27:40 14:27:44 14:27:48

And what this says is that in looking at 14:27:51

both business POT services in Nebraska and all of Qwest's UNE-P orders across its regions, it was missing its installation intervals for nondispatch orders. 14:27:53 14:27:57 14:28:01 14:28:04

And as we talked about at the performance hearing, nondispatch orders will be those that are the majority of these kinds of orders. Most of the time you're not going to have a dispatch out to the field. 14:28:06 14:28:09 14:28:12 14:28:15 14:28:18

Nebraska, Mr. Crain argues, if you look at the commercial performance results in Nebraska, they meet their performance results for business POTS. And so they're asking you to look at that instead of the test results. But they acknowledge in their written comments that they 14:28:22 14:28:26 14:28:31 14:28:34 14:28:36 14:28:39

have modified their data a great deal for business POTS over the last year. 14:28:41 14:28:44

Now, to their credit, that was in response to some problems that were found. But I think it goes to how much you can rely on the year's worth of data for business POTS. 14:28:47 14:28:49 14:28:52 14:28:56

But if you look at UNE-P -- and this is a service that we argued to you in the hearing a few weeks ago and also in our post-hearing proposed orders that Qwest had not satisfied. If 14:28:59 14:29:02 14:29:05 14:29:08

you disregard the 3086 exception test results, Qwest's failure to meet its benchmark performance requirements there, in -- for UNE-P specifically, if you look at Nebraska results instead, Qwest has treated CLECs in a statistically significantly discriminatory way in the last -- all of the last four months and in eight of the last twelve months. 14:29:14 14:29:17 14:29:21 14:29:27 14:29:29 14:29:33 14:29:36 14:29:39

So this is one where you have a failure to meet the test. Qwest has decided to go forward without meeting the test. But if you look at your own data in Nebraska, they also failed to satisfy. 14:29:40 14:29:45 14:29:48 14:29:50 14:29:54

So it's a difficult leap I think that you find in Nebraska Qwest is satisfying its UNE-P obligation. 14:29:55 14:29:59 14:30:03

The other thing I heard Mr. Crain say today and I also saw in their written comments is, excuse me, that even though they don't meet their UNE-P obligations, the difference between CLEC performance and retail performance is typically less than one day. But when you look at the context, the interval for UNE-P POTS is typically three days; whereas, the interval for Qwest's retail customers can often be the next business 14:30:04 14:30:07 14:30:09 14:30:13 14:30:18 14:30:21 14:30:25 14:30:29 14:30:33

day for POTS service. 14:30:36

So you've got a discrepancy right off the bat with respect to how quickly you can get your service. 14:30:39 14:30:42 14:30:44

But even if you look at the UNE-P POTS interval alone of three days, if Qwest is treating CLECs and its own customers different to the tune of one day, that's 33 percent that they're missing by. And we do think it's significant. And we think it's particularly significant to the customer experience and the 14:30:45 14:30:48 14:30:51 14:30:55 14:30:59 14:31:04 14:31:06

CLEC experience. 14:31:09
Moving on to test 14 -- 14:31:12
COMMISSIONER LANDIS: Mary, Frank 14:31:14
here again. 14:31:15
MS. TRIBBY: Yes. 14:31:16
COMMISSIONER LANDIS: What are you 14:31:17
suggesting that we do with that kind of 14:31:19
information at our hands? What should we be 14:31:20
doing now that you've told us this and your 14:31:25
concern? 14:31:27
MS. TRIBBY: I think, Commissioner 14:31:28
Landis, when we filed our comments on performance 14:31:30
data, we tried to be fair as to what Qwest was 14:31:31
satisfying and what it wasn't. 14:31:35

What we said is if you look at the Nebraska, 14:31:38
for example, UNE-P data, Qwest doesn't satisfy in 14:31:41
Nebraska, either they don't satisfy it or there's 14:31:46
little volume, and so you have to look beyond to 14:31:49
the regional data or to some other information. 14:31:51
You now have some other information. You 14:31:54
have an OSS test on a specific issue that Qwest 14:31:56
failed to meet. And I think the reality is that 14:32:01
we would tell you -- and this certainly is not 14:32:05

the case for every checklist item -- but on some of these, unless Qwest either fixes the problem that KPMG identified and KPMG can attest to that fix or they find a way to improve their commercial performance on UNE-P in Nebraska, you're going to have to find at least for the current set timeframe that Qwest does not meet its obligations. 14:32:08 14:32:10 14:32:14 14:32:19 14:32:22 14:32:33 14:32:33 14:32:35

And I think that's where you come down. Although, we're talking about, you know, a fairly insignificant number of checklist items here. 14:32:36 14:32:38 14:32:42

But I think if all of the data in front of you, for example, on UNE-P shows that Qwest either doesn't satisfy or there's not enough evidence to show that they satisfied, you're going to have to require something of them, 14:32:46 14:32:49 14:32:53 14:32:55 14:32:59

either that the tests be reopened and that problems that were identified be fixed and/or that they find a way to improve their performance in the state for CLECs. 14:33:01 14:33:05 14:33:08 14:33:11

COMMISSIONER LANDIS: Okay. Would an issue like this be treated or addressed in the QPAP instead of waiting until a certain benchmark 14:33:15 14:33:16 14:33:20

is made, the process moves forward and then if they're not making it, is this the type of an item? Or -- it is, isn't it, that would be -- that they would have to pay a fine for? Am I mistaken on that? 14:33:25 14:33:31 14:33:33 14:33:36 14:33:39

MS. TRIBBY: Well, you are not mistaken, I don't believe. To the extent UNE-P is included in your QPAP and there are either parity requirements or benchmark requirements. 14:33:41 14:33:42 14:33:47 14:33:50

COMMISSIONER LANDIS: Right. 14:33:52

MS. TRIBBY: If you have CLECs that are using those in the state and if the performance matrix are being missed, then Qwest would have to pay a penalty. 14:33:54 14:33:55 14:33:58 14:34:02

The concern that I have about waiting, I guess, is two-fold. First of all, Qwest is obligated to satisfy its 271 obligations before it gets released, before it gets to offer long distance. 14:34:04 14:34:07 14:34:11 14:34:15 14:34:19

COMMISSIONER LANDIS: Right. 14:34:19

MS. TRIBBY: And, secondly, if you don't have for some of these services very much volume in the state, it may be that there's never 14:34:20 14:34:21 14:34:25

a very great incentive in Nebraska for Qwest to improve its performance because they've already gotten 271 released and they're really not subject to much in the way of penalties in the state because of the low volume. In other words, you know, the QPAP isn't self-executing. You've got to have people that are actually using the service. 14:34:28 14:34:32 14:34:34 14:34:38 14:34:40 14:34:43 14:34:46 14:34:48

And the problem that that creates for Nebraska is even if your volumes are low, just as an example, on a product, how do you ever get the performance to be improved such that CLECs may want to offer that service in the state, if Qwest has lost their incentive, either through having a paid 271 release and/or not facing a significant monetary penalty to improve that performance. 14:34:48 14:34:50 14:34:55 14:34:58 14:35:02 14:35:07 14:35:12 14:35:15

COMMISSIONER LANDIS: And you think it's within the power of the commission to somehow affect the market or the desirability of the product, depending on how we would rule in 14:35:20 14:35:20 14:35:23 14:35:26

this situation? Or come down -- 14:35:30

MS. TRIBBY: I'm sorry. Were you finished? I missed the end. 14:35:34 14:35:35

COMMISSIONER LANDIS: Well, I'm just -- I'm wondering if your suggestion is the commission can somehow affect the market or the desirability of these services by how we treat this exception. 14:35:37 14:35:37 14:35:43 14:35:45 14:35:51

MS. TRIBBY: Well, I'm not suggesting, I don't think, Commissioner Landis, that you can create demand if it doesn't exist or you can force CLECs to come in and offer a service. 14:35:53 14:35:54 14:35:57 14:36:01 14:36:06

But I do think it's within your power and, frankly, within your obligation to make sure that Qwest is offering for all of the products and services under the act an environment in which they allow CLECs a meaningful opportunity to compete and provide nondiscriminatory treatment. 14:36:07 14:36:10 14:36:14 14:36:18 14:36:22 14:36:26

And as much as you may want them, they may want to be in the long-distance market, if they haven't yet satisfied those obligations, then it's premature to give them the right; and, frankly, the right carries with it the incentive, we think, to fix this stuff. 14:36:29 14:36:34 14:36:37 14:36:39 14:36:43 14:36:48

COMMISSIONER LANDIS: Okay. Thank 14:36:51

you, Mary. That's helpful.

MS. TRIBBY: Moving on to 3054 which has to do with the EEL provisioning. Qwest says in their written comments about this that each time a problem was found, they moved to fix it. Apparently the last time around, though, they didn't do that. They chose not to fix the problem and instead to take the observation of closed/unresolved.

Again, this may be a product that doesn't have a lot of current demand in Nebraska, but is certainly may have demand in the future.

And one of the things that I think is critical to think about is KPMG also opened an exception in the POC test -- and I believe it's exception 3089 -- where they issued their concern that very often, in fact, 7% times when a problem was brought to Qwest's attention by either Liberty or KPMG in an observation or exception, Qwest said, well, this is just a training problem, we'll modify our documentation, we'll retrain our employees and that should solve the problem.

And KPMG was concerned that even recognizing

that there certainly will be some amount of human error in everyone's business, this was excessive, extremely excessive for an ILEC. 14:38:11 14:38:14 14:38:18

And so when Mr. Crain says that KPMG reviewed our methods and procedures and out of that review came this -- and this is one that's an observation, not an exception -- I think it is indicative of a larger problem with Qwest documentation and beyond that with Qwest's employees following its documentation. 14:38:22 14:38:26 14:38:29 14:38:32 14:38:36 14:38:41 14:38:43

And this, again, is one of the things that KPMG will be looking at and there should be some further information in on the final report. 14:38:46 14:38:49 14:38:52

With respect to exception 3107, this has to do with the edit transaction during a volume peak test and 20 -- the result being 27 seconds instead of 24 seconds. What I would say about that one is this may be one where the FCC will agree with Qwest that the impact is minimal and that you don't need to -- you know, that they were being reasonable in their decision to take this as closed/unresolved. 14:38:57 14:39:02 14:39:06 14:39:10 14:39:14 14:39:19 14:39:22 14:39:26 14:39:29

I am not able to ascertain, nor, I don't believe, with KPMG, the validity of Qwest's representation that this only affects about 1 -- 14:39:31 14:39:36 14:39:40

I'm sorry, .3 percent of all maintenance and repair transactions. 14:39:44 14:39:48

If that is the case, then I don't know, frankly, how you ever figure that out. But if that's the case -- and I suspect it may be KPMG and/or the FCC will have information from other RBOCs that will allow it to apply some kind of a comparison, that, then, you know, I -- I can agree that Qwest's decision to take this as closed/unresolved instead of try to get that three seconds removed from the time probably was a reasonable approach. So let's move on beyond that one point. 14:39:50 14:39:53 14:39:56 14:39:59 14:40:03 14:40:07 14:40:12 14:40:14 14:40:17 14:40:20 14:40:26

Exception 3055 which Mr. Crain discussed which has to do with inaccurate close-out code for POTS, retail and UNE-P, again, both of these are significant products. 14:40:30 14:40:34 14:40:37 14:40:40

This has to do with who caused the trouble. If Qwest is assigning trouble and who caused it, which they have to do for purposes of performance reporting -- and which, frankly, has a significant effect on performance reporting -- this has to do with whose fault the trouble was. And what KPMG found is that in the -- in their first test, Qwest was assigning the wrong code 14:40:44 14:40:46 14:40:50 14:40:52 14:40:54 14:41:00 14:41:02 14:41:06

more than 38 percent of the time. 14:41:10

They then did a retest and found that they were misassigning these more than 11 percent of the time. 14:41:13 14:41:16 14:41:18

In determining to close out this exception or close it as closed/unresolved, after the retest, KPMG consulting said -- and this is a quote -- "KPMG Consulting reaffirms its response of 1-17-2002 and believes that the results of the retest still constitute an unsatisfactory result." 14:41:20 14:41:25 14:41:29 14:41:33 14:41:36 14:41:41 14:41:44

And I think that's -- AT & T would agree with that. 14:41:46 14:41:48

Liberty Consulting also found problems and issued observation 1028, having to do with Qwest personnel inaccurately applying these kind of customer miscodes. And in closing that observation, this was one of the objections we had to Liberty's work, Liberty found that while they expect that the renewed focus on methods and procedures should work to reduce the error rate in MTTR, it cannot substantiate those effects at this time. So we think Liberty agreed with KPMG that the problem existed and that they weren't 14:41:51 14:41:53 14:41:57 14:42:00 14:42:04 14:42:06 14:42:13 14:42:15 14:42:18 14:42:22 14:42:27

25 able to close it with any verification of the 14:42:30

1 fix. 14:42:33
2 What Qwest has said is we'll -- we've given 14:42:36
3 our employees additional training, this should 14:42:39
4 have no impact on the competitive results. 14:42:41
5 Again, those are views coming from Qwest's 14:42:47
6 perspective. They have not been able to be 14:42:50
7 tested by the vendors. Given that two vendors 14:42:51
8 found this to be a significant exception, we 14:42:54
9 agree that this is something that Qwest is 14:42:58
10 certainly closing at its own risk. 14:43:02
11 And, Commissioner Landis, with respect to 14:43:05
12 your question about what do we do about this, 14:43:07
13 I've been at a few hearings lately where 14:43:10
14 commissions have said, well, what if we disagree 14:43:16
15 that these are insignificant and we decide to ask 14:43:18
16 you to do more testing. You know, clearly that 14:43:19
17 is something that I guess is within Qwest's 14:43:21
18 prerogative to refuse to do, to take the position 14:43:23
19 that they have done enough. 14:43:24
20 But I do think that, you know, both the 14:43:29
21 state to some extent and Qwest proceeds at its 14:43:31
22 own risk if it goes to the FCC with some of those 14:43:37

problems, particularly these more significant problems that have not been fixed in the system or at least there's no indication that those have

been fixed.

COMMISSIONER LANDIS: Mary, do you have -- Commissioner Landis here. Do you have any idea, maybe Mr. Palazzolo is the one I should be asking -- how much -- what kind of timeline are we talking about? Let's say the commission wanted some additional testing. Are we talking 30 days, 15 days, a week? I mean, I have no concept of how long it takes to develop additional --

MS. TRIBBY: What we have found, Commissioner Landis, is that it really depends on the problem identified. It depends, first of all, on how long it takes Qwest to fix the problem. And based on that, KPMG has been able to turn around pretty quickly and be prepared to do their retesting. But I think it really is impacted more by when Qwest says, okay, we're ready for you to retest because we think we fixed the problems.

And what we have seen I think through the -- our own tests that we've conducted and the KPMG test is if Qwest believes it's enough of a problem and, therefore, makes it a priority, most of this stuff can be fixed relatively quickly. 14:44:41 14:44:43 14:44:47 14:44:51 14:44:54

So, you know, we've had retests concluded in the span of a week, I think, five days, as I understand it. Sometimes it takes longer. It depends on, again, how extensive the retesting has to be and how long it takes to put the fix into place. 14:44:57 14:44:59 14:45:02 14:45:06 14:45:09 14:45:12

Again, though, I would say that my sense is that Qwest has taken a number of closed/unresolveds for just that reason, that they don't want to add another week or two weeks or four weeks to their OSS tests. 14:45:14 14:45:18 14:45:22 14:45:26 14:45:28

And I think evidence of that is the fact that when KPMG issued its recent exceptions having to do with Qwest data which required the tests to be pushed out by several weeks, Qwest then went back and asked KPMG to relook at some of the Os and Es that they had determined they would take closed/unresolved. 14:45:33 14:45:35 14:45:40 14:45:42 14:45:45 14:45:49 14:45:53

And I think the only reasonable inference drawn from that is they decided, well, if we're not going to get a final, final report anyway, let's try to clear up some of these issues that we determined would take too long when we thought the test was going to conclude sooner. And, you know, from a CLEC's perspective and

obviously our, you know, motivation for 271 release and the timing of that is different. But if you have significant problems and it adds a month or two months to your schedule, then, you know, that's the way it is and that's what the law says is that you must fix these problems and you must be able to comply prior to gaining release.

So we think that that's sort of a small price to pay for having an environment that is supportive of CLEC activity.

COMMISSIONER LANDIS: Okay. Thank you, Mary.

MS. TRIBBY: With respect to the other couple exceptions -- and Mr. Craig talked about observations and exceptions under test

17	24.6, having to do with Qwest's stand-alone test	14:47:05
18	environment and Qwest's interoperability testing,	14:47:09
19	I'm going to defer those to Ms. Friesen because	14:47:13
20	she's going to talk about those in connection	14:47:16
21	with CMP.	14:47:19
22	So the only two left for me are exception	14:47:20
23	3058, which has to do with Qwest's repair	14:47:23
24	intervals -- again, there was a 95-percent	14:47:27
25	benchmark set by KPMG. Qwest made it 92 percent	14:47:32

1	of the time. They say that's good enough. We	14:47:36
2	don't know where the FCC will come down on that.	14:47:40
3	But, again, we think because they didn't satisfy	14:47:44
4	a benchmark that was believed at least by the	14:47:47
5	vendors to be significant, that's something the	14:47:49
6	commission should look at.	14:47:52
7	With respect to exception 3109, which has to	14:47:54
8	do with EB-TA, which is Qwest's maintenance and	14:47:57
9	repair interface, Mr. Crain indicated both in	14:48:04
10	their written comments and today that they're not	14:48:04
11	required to have an electronic version of	14:48:08
12	maintenance and repair interface.	14:48:10
13	But what the FCC has actually found is we	14:48:17
14	have to have equivalent access. So if Qwest has	14:48:23

electronic access to these functions, then CLECs must as well. 14:48:23 14:48:25

So to the extent that Qwest is enjoying quicker, more favorable electronic access than are CLECs, that's something that the commission should take into account in looking at whether Qwest is satisfying its checklist 2 obligations, which have to do with OSS. 14:48:29 14:48:32 14:48:36 14:48:40 14:48:43 14:48:47

And that concludes at this point my comments. 14:48:49 14:48:53

COMMISSIONER LANDIS: Thank you, 14:48:54

Mary. I -- we should have the record reflect that the commission's chairman, Commissioner Anne Boyle, has joined this workshop. 14:48:55 14:48:57 14:49:01

You going to have a very brief rebuttal, I assume, or do you want any rebuttal or response? 14:49:05 14:49:08

MR. CRAIN: I'll have brief rebuttal. 14:49:10 14:49:11

COMMISSIONER LANDIS: Brief rebuttal. And then I think we'll take a 5-minute break. We'll catch our breath and wake up a built and go on to change management. Let's have a brief response if you care to make them. 14:49:13 14:49:13 14:49:16 14:49:19 14:49:21

MR. CRAIN: Okay. First of all, AT & T's argument has been that the law says you have to fix these problems and the benchmarks, all the benchmarks were set before the testing started and we have to meet 100 percent of them. Neither one of those is actually correct. 14:49:23 14:49:25 14:49:32 14:49:37 14:49:39 14:49:42

First of all, the law says we need to provide nondiscriminatory access to OSS. The FCC has continually said that needs to be looked at in a big picture sort of way, you need to look at all of the aspects of what the BOC is doing together, all of the evidence you have before you together to make that determination. 14:49:45 14:49:48 14:49:52 14:49:55 14:50:00 14:50:04 14:50:07

This test was established in the work -- and the benchmarks were established with the idea and one of the first principles discussed and decided upon was that Qwest had the ability to take some observations closed/unresolved. All the parties understood that. AT & T agreed to it. 14:50:09 14:50:12 14:50:16 14:50:19 14:50:24 14:50:27

When we agreed to include hundreds of measures and hundreds of benchmarks in this test, we specifically did it with the understanding that we would not be required to meet absolutely 14:50:29 14:50:33 14:50:36 14:50:38

every single one of them and we would have the ability to take some observations and exceptions closed/unresolved. 14:50:42 14:50:44 14:50:48

To look at the vast number, 500-some criteria that were set here and KPMG looked at in the draft final report and expect there not to be any not satisfieds is just not the way things happen in the real world. 14:50:51 14:50:54 14:50:59 14:51:02 14:51:06

We have performed at a very high level. I mean, KPMG and HP found many problems during the testing. We have fixed the vast majority of things they found. And even on the things that we're looking at here, even these closed/unresolved observations and exceptions, in the vast majority of these occasions, we have 14:51:08 14:51:12 14:51:15 14:51:21 14:51:23 14:51:25 14:51:28

responded and resolved KPMG's issues or we have plans in the works to do so sometime in the future. 14:51:32 14:51:36 14:51:38

To go through these specifically, the first issue that was raised is exception 3120 which is being retested that has to do with the accuracy of the data. We expect an answer from KPMG on that exception somewhere around the 17th. And 14:51:39 14:51:43 14:51:46 14:51:49 14:51:55

we'll find out then if they still think that there are any issues here. 14:51:58 14:52:00

To look at the data overall, I think people need to understand that Qwest has agreed to and has undergone the most thorough audits that anybody has gone through in the country. You add that to the data-reconciliation efforts that we've gone through and we agreed to and you add that to the work that KPMG did and HP did in this test to look at the results of the testing to verify our data accuracy, by the time we're done here, there's not going to be any question and you can feel very confident that our data is accurate. 14:52:02 14:52:05 14:52:08 14:52:11 14:52:14 14:52:17 14:52:20 14:52:24 14:52:27 14:52:30 14:52:32 14:52:37

The -- couple of things I think Mary said that we stated that resale PBX is not a critical product. That wasn't my argument at all. My 14:52:41 14:52:45 14:52:50

argument is that the parties specifically addressed and specifically discussed and specifically agreed to a benchmark here and that benchmark for PO-5 was for resale orders as -- at a aggregate level rather than disaggregating to the level of resale PBX. We met the agreed 14:52:53 14:52:56 14:52:58 14:53:01 14:53:06 14:53:10

benchmark. KPMG has included no not satisfieds in that area of the test and found we satisfied this area of the test in the draft final report. 14:53:13 14:53:17 14:53:19

The issue of exception 3086, whether or not we met the benchmark for PO-4 -- OP-4, I'm sorry, in the test is another exception that AT & T brought up. 14:53:30 14:53:30 14:53:33 14:53:37

What the commission needs to do with that issue, like all issues -- and I think that is squarely before the commission in its review of the data, actual data on UNE-P -- is look at all of the provisioning PIDs at the same time and find overall whether or not Qwest is providing nondiscriminatory access. Missing one particular PID, as the FCC has said many times, doesn't necessarily mean you're providing nondiscriminatory access. You need to look at groups of PIDs as a whole and when you do that, you can come to the very real conclusion that 14:53:40 14:53:42 14:53:45 14:53:48 14:53:54 14:53:57 14:54:01 14:54:04 14:54:07 14:54:08 14:54:11 14:54:15

Qwest is providing nondiscriminatory access and is provisioning UNE-P on a nondiscriminatory basis. 14:54:20 14:54:23 14:54:29

I think AT & T said it best when Mary said 14:54:29

you need to look at whether or not there's an environment here in the state where Qwest is providing nondiscriminatory treatment to CLECs. 14:54:32 14:54:34 14:54:37

If you look at the results of this test and you look at the results of our PIDs as a whole and our commercial data as a whole, I don't think there's any question and should be any concern that there's an environment here, there's an environment within the state where we are providing nondiscriminatory treatment to CLECs. 14:54:40 14:54:42 14:54:45 14:54:47 14:54:50 14:54:53 14:54:55

One further issue -- two more issues. 30 -- I forget the number of the PID. 3094 exception, I believe AT & T said we opted to take this closed/unresolved rather than fix the problem. This is the documentation for EEL provisioning. We actually resolved the issues that KPMG identified during the first round of testing. Because of the timing, we fully acknowledge that we asked them not to reevaluate the new documentation we provided them because there is additional time now. We've asked KPMG to take 14:55:00 14:55:06 14:55:12 14:55:15 14:55:18 14:55:21 14:55:25 14:55:27 14:55:32 14:55:35 14:55:37

another look at it. We have addressed the issues raised by KPMG. And they are looking at those 14:55:41 14:55:44

3	issues.	14:55:46
4	The exception -- or the observation,	14:55:47
5	actually, relating to training that AT & T	14:55:50
6	referred to, I just want to mention that that has	14:55:54
7	been closed by the test vendor.	14:55:57
8	And then one further issue is the close-out	14:56:00
9	code issue that was raised by AT & T which	14:56:08
10	relates to exception 3055. AT & T stated that	14:56:11
11	the issue here is whether or not Qwest or CLECs	14:56:16
12	caused the problem and caused the trouble. And	14:56:19
13	that is the important issue here. And Qwest	14:56:22
14	agrees that that is the important issue. But	14:56:25
15	that was not the issue within this exception.	14:56:28
16	And that's what I tried to explain the first time	14:56:31
17	around. The first two digits of that code are	14:56:33
18	what identifies the -- whether or not Qwest	14:56:37
19	caused the trouble or whether or not CLECs caused	14:56:41
20	the trouble.	14:56:44
21	For the vast majority of times and we met	14:56:45
22	the -- well -- Qwest was well over the 95-percent	14:56:48
23	benchmark for those two digits of the code. What	14:56:51
24	KPMG had an issue with was the final two digits	14:56:54
25	which indicates a variety of different issues	14:57:00

underneath the bigger issue of whether or not Qwest or CLECs caused the problem. 14:57:02 14:57:04

And there really isn't in -- and KPMG hasn't found any or identified concerns with the first two digits. It's the second two digits that are the focus of this exception. 14:57:09 14:57:12 14:57:13 14:57:16

With that, those are -- that completes my comments. Did you want to say anything? 14:57:20 14:57:24

COMMISSIONER LANDIS: Thank you. I know our counsel has a couple of questions. And then we'll move to our break. 14:57:26 14:57:28 14:57:30

So, Mr. Post. 14:57:32

MR. POST: Sure. Mr. Crain, under exception 3109, in your handout, you made a statement that the FCC has never required that BOCs provided CLECs with an electronic bonding interface for maintenance and repair activities. Do you have a particular FCC order that has made that statement or because it's in the negative, it's never been required, it's not really specifically mentioned anywhere? 14:57:33 14:57:35 14:57:40 14:57:44 14:57:44 14:57:46 14:57:49 14:57:52 14:57:54

MR. CRAIN: I have a particular -- I can get for you at the break, we've cited a particular cite for that. I believe it's from the Texas order. 14:57:55 14:57:57 14:58:00 14:58:02

On that point, I want to make clear that the issue is not whether or not we provide electronic access for maintenance and repair. We clearly do that in two ways. One of them is the GUI interface, CEMR. The second is the electronic bonding. The electronic bonding piece is what the FCC specifically stated is not required for 271. 14:58:04 14:58:07 14:58:10 14:58:13 14:58:15 14:58:20 14:58:23 14:58:26

COMMISSIONER LANDIS: If we're going to be referring to the handout, could we get Commissioner Boyle a -- if you're going to be referring to -- we were going to do that over the break. But she doesn't have one. 14:58:28 14:58:28 14:58:36 14:58:36 14:58:36

So, Chris, when you ask a question, if you're alluding to the handout -- 14:58:40 14:58:42

MR. POST: Sure. I was alluding to the handout. 14:58:43 14:58:44

COMMISSIONER LANDIS: You've got -- I'm sorry, I didn't realize you had it in front of you, Anne. 14:58:45 14:58:46 14:58:48

MR. POST: That's fine. If you could maybe start the second part with that, that would be appreciated. 14:58:49 14:58:50 14:58:52

My second question was really does Qwest as a result of this workshop, at least this first 14:58:53 14:58:56

part, what is Qwest requesting of the commission? Is this an update for the commission so they can make their final ruling after your early June proceedings? Or are you requesting an order on any of these particular things at this time? 14:58:58 14:59:02 14:59:05 14:59:08 14:59:11

MR. CRAIN: With relation to the closed/unresolved issues that we just discussed, the reason we asked for this proceeding is because we knew that these would specifically be issues that people raised during the testing and people would be interested in. And because we had some time to deal with them and address the issues now, we've -- we wanted to have all the -- the parties have an opportunity to put their positions on the record and the commission understand those positions for inclusion in the final recommendation relating to OSS, which will happen in the June -- after the final, final report is out. 14:59:13 14:59:15 14:59:18 14:59:22 14:59:24 14:59:28 14:59:29 14:59:31 14:59:36 14:59:37 14:59:40 14:59:43 14:59:48 14:59:52

MR. POST: Commissioners, that's all the questions I have. 14:59:53 14:59:54

COMMISSIONER LANDIS: Why don't you ask Mary Tribby what her expectations are, Chris, so -- 14:59:55 14:59:56 14:59:59

25 MR. POST: Mary, would you disagree 15:00:00

1 with the statement I guess that Mr. Crain made 15:00:01
2 that we would not expect to enter an order as a 15:00:04
3 result of this particular hearing or workshop? 15:00:07
4 MS. TRIBBY: No. That would be my 15:00:09
5 understanding as well. 15:00:10
6 MR. POST: Okay. Dr. Griffing I 15:00:13
7 believe had just a couple questions. 15:00:14
8 DR. GRIFFING: Andy, would you just 15:00:18
9 explain on 3086 what is being done to -- or has 15:00:19
10 been done to recast data, to revise data to 15:00:26
11 submit updated data? 15:00:30
12 COMMISSIONER BOYLE: Before you 15:00:36
13 start, exactly where is that? I'm sorry. I just 15:00:37
14 got here. 15:00:39
15 MR. CRAIN: 3086 would be test 12. 15:00:42
16 It is about the fourth or the fifth page in. 15:00:47
17 It's the one, two, three -- fourth page in. 15:00:49
18 DR. GRIFFING: Commissioner, that 15:00:57
19 has to do with whether or not they're 15:00:58
20 provisioning UNE-P certain types in -- within the 15:01:00
21 intervals. 15:01:04
22 MR. CRAIN: It's my understanding 15:01:11

that with relation to this particular issue in this exception, there were long discussions -- and, unfortunately, I was on vacation during 15:01:12 15:01:19 15:01:22

those discussions -- but on the TAG and in a separate meeting as well with all the parties to the ROC to discuss how it handled the issues and how far back to go and recast data. 15:01:24 15:01:28 15:01:31 15:01:34

And I believe what the decision was was to recast data back through December, which our first -- were first reported with the March results. But I can try to get some further information on that over the break if you'd like. 15:01:38 15:01:41 15:01:45 15:01:51 15:01:58

DR. GRIFFING: I would. 15:02:02

MR. CRAIN: Okay. I think AT & T and Mary was addressing a bigger issue of whether or not this PID itself because of other issues has been the subject of revision in the past. 15:02:04 15:02:07 15:02:13 15:02:18

DR. GRIFFING: All right. I'm just concerned about the reworking of data. 15:02:27 15:02:28

MR. CRAIN: Okay. 15:02:35

DR. GRIFFING: One more question about 3055, the close-out codes. 15:02:38 15:02:39

MR. POST: I believe that's on page 15:02:47

maybe 7, Commissioner. 15:02:48
DR. GRIFFING: So it's Qwest's 15:02:51
position that you're not missing, say, just, for 15:02:54
example, Qwest's -- when Qwest caused the 15:03:03
problem, it's not being said CLECs caused the 15:03:07

problem but it's, rather, the type of reason that 15:03:10
caused the miss by either party? 15:03:16
MR. CRAIN: That's correct, for the 15:03:18
vast majority of the cases that were identified 15:03:19
in this exception. 15:03:22
DR. GRIFFING: The vast majority of 15:03:27
the 11 percent? 15:03:28
MR. CRAIN: Yes. 15:03:30
DR. GRIFFING: So there is -- 15:03:32
MR. CRAIN: I'm not saying we never 15:03:33
make mistakes on coding the first two numbers. I 15:03:35
think any company makes mistakes. And I think we 15:03:43
probably do. 15:03:48
But for the -- and -- the couple times in 15:03:50
this exception those were identified as the first 15:03:53
two. But if you really look at what the issue is 15:03:55
here, it's the later couple of code digits. 15:03:57
DR. GRIFFING: Okay. 15:04:03

COMMISSIONER LANDIS: Anything else, Dr. Griffing? 15:04:06

DR. GRIFFING: No. 15:04:08

COMMISSIONER LANDIS: I think this would be a good time to take a break. We've got another whole couple of hours to go through on change management. 15:04:08 15:04:09 15:04:11 15:04:13

MR. POST: Just, Mary or Letty, do you know how long your response may be to Mr. Crain's initial and -- the next round? 15:04:15 15:04:16 15:04:19

MS. FRIESEN: This is Letty. I suspect I've got maybe half hour to 40 minutes. 15:04:25 15:04:27

MR. POST: Okay. Mr. Crain, your additional part? 15:04:35 15:04:35

MR. CRAIN: Less than 45 minutes. 15:04:35

MR. POST: I think we're doing pretty good. 15:04:35 15:04:36

COMMISSIONER LANDIS: How much time do we want for a break here? 15:04:37 15:04:37

COMMISSIONER BOYLE: Five, ten minutes. 15:04:40 15:04:41

MR. POST: At least ten, please. 15:04:41

COMMISSIONER LANDIS: A suggestion 15:04:45

of two hours probably will work. Let's take ten minutes. We'll get to ten minutes past the hour. That will give everybody an opportunity to grab a pop or Coke. 15:04:45 15:04:48 15:04:51 15:04:55

(Recess taken from 3 p.m. to 3:10 p.m.) 15:04:56

COMMISSIONER LANDIS: Let's go back on the record because we have a full afternoon. Same procedure. What? 45 minutes a side on this and 10 minutes for rebuttal? 15:18:30 15:18:30 15:18:40 15:18:44

COMMISSIONER LOWELL JOHNSON: 45 and 45. 15:18:48 15:18:48

COMMISSIONER LANDIS: I think that's what the -- Letty and Andrew indicated. So let's go ahead and get started. Change management. 15:18:50 15:18:51 15:18:56 15:18:58

MR. CRAIN: First issue I was asked to come back with was the quote from an order that said that maintenance and repair computer-to-computer interfaces are not required. 15:18:59 15:19:02 15:19:05 15:19:09

In section -- or paragraph 215 of the New York 271 order, the commission said that the provision of an integrated computer-to-computer maintenance and repair interface is not required 15:19:14 15:19:18 15:19:24 15:19:27

to satisfy the substantial time and manner test, provided that the BOC otherwise demonstrates it provides equivalent access to its maintenance and repair function. 15:19:31 15:19:36 15:19:39 15:19:43

MR. POST: Thank you. 15:19:44

MR. CRAIN: Sure. Moving on to change management. Change management is an issue I'm very well familiar with because -- Letty's in a similar position. 15:19:44 15:19:46 15:19:52 15:19:57

It is one of the factors the FCC looks at when it discusses nondiscriminatory access to 15:20:01 15:20:04

OSS. So if you look at the FCC's 271 orders, it discusses change management within the OSS section of the 271 orders. 15:20:09 15:20:14 15:20:17

Change management is -- I guess I'll go through a very basic explanation what change management is, mainly because I've come to the realization there's a misunderstanding of the scope and possibilities what a change management process can be. 15:20:20 15:20:24 15:20:26 15:20:30 15:20:34 15:20:40

A change management process is the process for CLECs to submit changes to Qwest and -- or requests for changes and then Qwest to respond. 15:20:41 15:20:44 15:20:52

In Qwest's region, it's split up into two sections. First of all, there's the OSS interface part of change management which is a traditional part of change management the FCC looks at. And it's what you'll see, for example, in New York and Bell South or -- Verizon or Bell South, et cetera. 15:20:59 15:21:02 15:21:04 15:21:06 15:21:10 15:21:12 15:21:18

There's also in Qwest's region a product and process piece of change management which is something that we've implemented which goes well beyond what any other RBOC is doing in the country. 15:21:19 15:21:21 15:21:23 15:21:26 15:21:29

And that part of change management covers 15:21:30

the -- all of our documentation that we provide to CLECs, tell them how to do business with us, the business rules that we provide for ordering various products and basically the product offerings we have. All of the manual and person-to-person interfaces that we provide to CLECs, we've got a change management process for that as well. 15:21:35 15:21:42 15:21:45 15:21:50 15:21:55 15:22:00 15:22:03 15:22:06

So change management provides an opportunity for CLECs to provide requests for Qwest to change 15:22:07 15:22:11

some things, either in its interfaces or in its product and process piece. 15:22:16 15:22:19

It provides a communication mechanism for Qwest to communicate to CLECs about potential changes it's thinking of making either to the interface or to the product and process side. 15:22:21 15:22:25 15:22:30 15:22:34

It provides a vehicle for the parties to consider issues and discuss issues and try to resolve issues so that we don't bring so many issues to commissions in the future. 15:22:38 15:22:41 15:22:45 15:22:48

What it doesn't do is provide a fail-safe mechanism that all issues between the parties will be resolved without conflict, without issues any time in the future. 15:22:51 15:22:55 15:22:58 15:23:02

We will be coming to you, I believe, in the 15:23:05

future with I hope fewer issues as a result of changes we made to change management. But it's not going to completely eliminate disputes between us and CLECs. 15:23:08 15:23:12 15:23:15 15:23:18

The other thing it doesn't do is guarantee perfection on Qwest's part. There are a couple of issues that CLECs have raised that we didn't do X, Y and Z correctly when we implemented a 15:23:19 15:23:23 15:23:25 15:23:29

change and that the change wasn't implemented seamlessly. 15:23:32 15:23:38

It gives a process for communication when that happens, when problems do develop in implementation of a change; but what it doesn't do is guarantee perfection. 15:23:38 15:23:42 15:23:45 15:23:48

That being said, this issue first came up in workshops around the middle of -- second quarter of last year, in 2001, April, May, June of 2001. It also came up in the testing both in Arizona and in the ROC. 15:23:49 15:23:53 15:23:59 15:24:04 15:24:06

As a result of issues that were raised, Qwest looked and said that, you know, we like -- we would like to address a lot of the concerns raised by CLECs but to do so, we can't do it in the traditional workshop format or in front of a commission reach agreements because what we need 15:24:08 15:24:11 15:24:16 15:24:18 15:24:22 15:24:25

to do is sit down with all the CLECs who are involved in change management and reach agreement with all of them, regardless of what state they operate in. 15:24:28 15:24:36 15:24:36 15:24:37

As a result, we kicked off the change management redesign process which started in last 15:24:37 15:24:40

June, and the first national meeting we had was last July. Since last July, we've been meeting every two weeks with CLECs and going through every aspect of change management. 15:24:44 15:24:47 15:24:51 15:24:53

We have gone -- we started with what is called the OBF standards document, the ordering and billing form, has issued a draft standards document for change management. Basically a standard of this is what change management ought to be. 15:24:56 15:24:59 15:25:02 15:25:06 15:25:08 15:25:11

We started with that language. We've gone through that entire document piece by piece and worked out new language with CLECs to adapt that language to Qwest's region and work out issues that CLECs have brought to the table. 15:25:12 15:25:14 15:25:17 15:25:21 15:25:24

I'm happy to report that we have no impasse issues to present to the commission as a result of the change management redesign process. 15:25:27 15:25:32 15:25:35

We reached agreement and have reached 15:25:40

agreement on all significant issues with CLECs. And, actually, as a result of a Colorado and Arizona -- two -- one Colorado and one Arizona proceeding, all the parties were asked to go back 15:25:42 15:25:46 15:25:50 15:25:54

and assure that they created a list of 15:25:57
significant issues that had to be resolved in the 15:26:01
redesign effort and could possibly result in 15:26:05
impasse issues to bring to commissions. 15:26:08
And we have put -- AT & T took the first 15:26:11
crack at putting together that list. It was 15:26:17
prioritized between Qwest and all the CLECs in 15:26:19
the redesign effort. We've gone through the 15:26:21
entire list, and we've reached at least 15:26:24
preliminary agreement on every single issue on 15:26:26
that list. So we have nothing to bring to you as 15:26:28
impasse issues. 15:26:31
We have gone through the entire standards 15:26:32
document and implemented new processes and 15:26:38
procedures for every significant aspect of change 15:26:41
management. Everything that you would see in the 15:26:45
standards document has been revised, has been -- 15:26:48
language has been agreed to between Qwest and the 15:26:52
other parties, and Qwest has implemented the new 15:26:54
section. 15:26:58
There are still some issues that we're 15:26:59

working on, some additional language for things 15:27:01
like a stay process where Qwest proposes a change 15:27:06

in product and process and CLECs don't like it and are going to go to a commission and ask for it to be stopped. We've reached agreement with CLECs that we will establish a process for them -- for an arbitrator to decide a stay issue in the interim while a commission determines the ultimate issue. 15:27:10 15:27:13 15:27:16 15:27:19 15:27:22 15:27:25 15:27:29

So we have gone past and gone further past where other RBOCs have gone in change management. 15:27:31 15:27:36

COMMISSIONER LANDIS: When you -- let me jump in if I might. I'm interested in just how the process worked. 15:27:40 15:27:40 15:27:44

The CLECs are going to be able to say, all right, time-out, Qwest, we want to hold this in abeyance until we get a commission order. Which commission? 15:27:46 15:27:48 15:27:51 15:27:55

You're talking about a 14-state region. You can't change management process in Nebraska without doing it in Colorado, I wouldn't imagine. What -- do you do a little forum shopping here when you decide which commission's going to -- who brings it, you or the CLEC? And if you do, do you get to pick the commission? 15:27:55 15:27:58 15:28:00 15:28:03 15:28:07 15:28:08 15:28:12

MR. CRAIN: This is an issue we grappled with. And we considered things, like, a 14-state ultra judicial body or something to consider these issues so that we get a ruling all across 14 states. The more we looked at it, the more we realized we're stuck with 14 commissions. And that's a good thing for us sometimes and a bad thing for us sometimes. 15:28:16 15:28:17 15:28:20 15:28:26 15:28:30 15:28:33 15:28:37 15:28:40

And it's a good thing for CLECs sometimes and some bad things for CLECs sometimes. But it's the reality. 15:28:41 15:28:43 15:28:46

There will -- there are some processes that can only be done in a 14-state process. So whoever gets in front of a commission and gets the first decision on it maybe will be able to be successful in forum shopping. 15:28:48 15:28:51 15:28:55 15:28:58 15:29:02

There are other issues that can be implemented differently state to state. So depending on the issue, it is -- it is -- and this is the reality now and it's the reality after the new process is in place as well and it was the reality two years ago, that there are some circumstances where the first commission to decide something could, meaning that that that's what happens across the region. So -- 15:29:08 15:29:12 15:29:16 15:29:21 15:29:24 15:29:26 15:29:30 15:29:33 15:29:36

COMMISSIONER LANDIS: Okay. 15:29:41
MR. CRAIN: So far it hasn't 15:29:41
happened much. But there's not much we can do 15:29:42
about that particular issue. We tried, though. 15:29:44
COMMISSIONER LANDIS: Okay. 15:29:48
Thanks. 15:29:48
MR. CRAIN: That being said, we 15:29:49
have implemented a complete change management 15:29:50
process. It's been in place for quite some time. 15:29:56
The new procedures were implemented as each 15:30:07
section was completed and we reached agreement on 15:30:07
that new section and redesigned. Qwest would 15:30:07
take it to the change management meeting 15:30:11
itself -- change management meets once a month -- 15:30:13
and say here's a new process, we're implementing 15:30:15
it now, unless anybody has objections. 15:30:17
So far we've had no objections to that. 15:30:20
So as we demonstrated in our filings, all of 15:30:23
the significant pieces and all the pieces the FCC 15:30:26
looks at of change management and all the pieces 15:30:29
you'll see in other regions have been implemented 15:30:31
for many months now. 15:30:34
What you won't hear from AT & T today and 15:30:37
what I haven't heard from any CLEC so far is 15:30:39
Verizon has this piece of change management that 15:30:45

you don't, SBC has this piece of change management that you don't or Bell South. There is no aspect of change management that we -- that other RBOCs have that we don't have as well and that we haven't implemented. 15:30:48 15:30:51 15:30:56 15:30:58 15:31:02

We've gone further than other RBOCs, and we're still working on some language and some additional aspects of change management. But because we're going further, we shouldn't be penalized for doing more to meet CLECs' needs than other companies have been across our country. 15:31:04 15:31:06 15:31:09 15:31:12 15:31:15 15:31:19 15:31:21

So moving on then -- 15:31:22

COMMISSIONER LANDIS: Let me jump in. Have you revised your SGAT to reflect these changes so if somebody wants to buy a service, they get this CMP -- 15:31:24 15:31:25 15:31:31 15:31:37

MR. CRAIN: Section 12.2.6 of the SGAT is the section that relates to change management. 15:31:42 15:31:45 15:31:50

COMMISSIONER LANDIS: Uh-huh. 15:31:51

MR. CRAIN: It's short. What it says is that Qwest will maintain a change management process that is consistent with industry practice and things like that and has a 15:31:51 15:31:52 15:32:00 15:32:02

listing of some of the things that change management has in it. 15:32:05 15:32:08

What it also includes is a reference to Exhibit G of the SGAT. Exhibit G of the SGAT is the -- is the governing document for change management. That is also a -- can be accessed on Qwest's website. 15:32:09 15:32:11 15:32:16 15:32:18 15:32:22

What section 12.2.6 also provides is the terms of Exhibit G itself provide for ways that Exhibit G, the change management document, may be revised in the future as the parties determine that, you know, this process needs to be tweaked here or somebody has a good idea. 15:32:24 15:32:30 15:32:36 15:32:40 15:32:43 15:32:46

Change management itself has a way for all the parties to get together, and essentially you have to do it by agreement to say I want to change this process. 15:32:49 15:32:51 15:32:53 15:32:56

COMMISSIONER LANDIS: So CLECs have a voice? If exhibit -- or appendix G, whatever you're talking about -- 15:32:58 15:32:58 15:33:02

MR. CRAIN: Yes. 15:33:03

COMMISSIONER LANDIS: -- your change management process changes going forward 15:33:04 15:33:05

CONTINUATION

[8]

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after the 271 process is played out -- 15:33:09

MR. CRAIN: CLECs have a voice. 15:33:11

COMMISSIONER LANDIS: -- CLECs, 15:33:12

you're not going to unilaterally all of a sudden 15:33:14

say, no, we don't -- we really don't like what we 15:33:16

crafted here and we're going to change it? 15:33:18

MR. CRAIN: No. 15:33:20

COMMISSIONER LANDIS: I want that 15:33:20

clear in my mind. AT & T or Cox or whoever is 15:33:22

going to be at the table saying, this is how 15:33:26

we're going to modify it going forward; is that 15:33:28

fair? 15:33:31

MR. CRAIN: That is correct. That 15:33:31

is one of the issues identified, and one of the 15:33:32

issues we worked through was how does this 15:33:34

process change in the future. And it's 15:33:35

essentially done by agreement of the parties. 15:33:38

COMMISSIONER LANDIS: Good. Okay. 15:33:41

That's helpful. 15:33:42

MR. CRAIN: Okay. Turning then to 15:33:43

the handout. The first page after the break we 15:33:44

had on change management process lists the FCC 15:33:51

factors. These are the factors that the FCC 15:33:54

looks at when discussing change management. 15:33:56
First issue is, is the information clearly 15:34:00
organized and readily accessible. 15:34:03
Second issue is, do competing carriers have 15:34:07

substantial input in the design and continued 15:34:10
operation of the process. 15:34:12
The third issue is whether or not there's a 15:34:15
procedure for the timely resolution of disputes. 15:34:18
The fourth issue is whether or not there's a 15:34:22
stable testing environment. 15:34:24
The fifth issue is the efficacy and then 15:34:27
to -- it's not my word, it's the FCC's, the 15:34:32
efficacy of documentation available for building 15:34:35
an electronic gateway. 15:34:37
And then the fifth, final factor is a 15:34:40
pattern of compliance with change management. 15:34:42
Turning to the first factor of whether or 15:34:47
not information relating to CMP is clearly 15:34:51
organized and readily accessible to CLECs, this 15:34:54
is I think an issue that shouldn't be -- there 15:34:57
shouldn't be a question anymore on this issue. 15:35:01
Our change management process is contained 15:35:03
in a single document the -- which is contained on 15:35:06

the website. It's also Exhibit G to the SGAT. 15:35:10
We have gone through with CLECs discussions 15:35:15
and worked out language with CLECs on every 15:35:20
particular piece of that exhibit. Those 15:35:29
discussions are continuing and will probably 15:35:29
continue for some time as we work out some of the 15:35:32

additional details. 15:35:35
But it's there. It's clearly organized in a 15:35:36
document. To the extent CLECs have any issues or 15:35:40
concern with any of the language, they've been 15:35:43
able to work through that with us and we've been 15:35:46
able to work out agreements on every issue that 15:35:48
has been brought to the table so far. 15:35:51
There are still some issues to be worked 15:35:53
through. But every substantial issue that was 15:35:55
identified by the parties as to something that 15:35:59
could create an impasse, we've reached agreement 15:36:02
on those issues. 15:36:04
Second issue the FCC looks at is whether or 15:36:09
not CLECs have had substantial input into the 15:36:12
design and continued operation of the change 15:36:18
management process. 15:36:19
Once again, I don't think there ought to be 15:36:20

any issue here that we have met this problem. 15:36:22
We've been meeting with the CLECs for seven or 15:36:27
eight months now, probably longer, longer than I 15:36:29
want to admit, and have been working through 15:36:32
every issue that anybody has wanted to bring to 15:36:36
the table. 15:36:39
There's no question, there's no -- there can 15:36:40
be no concern that CLECs have had substantial 15:36:42

input into the process. 15:36:45
The third issue the FCC looks at is whether 15:36:50
or not the CMP defines a procedure for the timely 15:36:53
resolution of disputes. This is what we talked 15:36:55
about a little earlier and one of the first 15:36:58
issues we resolved in the redesign effort. The 15:37:02
change management process contains clauses that 15:37:07
say -- provides for a quick resolution of impasse 15:37:11
issues, meaning that parties can escalate issues 15:37:17
to higher levels of management within both 15:37:20
companies and both companies are required to 15:37:24
provide final answers on a very expedited basis. 15:37:26
In addition, before or after or pretty much 15:37:30
any time during the process, any party can take a 15:37:35
dispute to a regulatory body. And that's what 15:37:39

the change management provides -- agreement provides. And that's consistent with what you'd see in change management documents for Verizon, SBC and for Bell South. They all have pretty much the same dispute resolution clause, which is essentially you can go to a commission and have any dispute resolved. 15:37:41 15:37:44 15:37:47 15:37:53 15:37:57 15:38:00 15:38:03

What Qwest has done, we've gone further than any other RBOC in that manner and have agreed to a process where CLECs can request a stay of a 15:38:05 15:38:08 15:38:13

change. That is something we're working through the language. There are a couple little aspects we need to work through still, but we have general agreement on what that looks like. But, once again, that goes well beyond what any other RBOC has been willing to agree to in the past. 15:38:17 15:38:19 15:38:23 15:38:26 15:38:30 15:38:33

The fourth aspect is the availability of a stable testing environment. And this is the issue that I discussed this morning when we talked about a couple of the observations and exceptions that were closed/unresolved. 15:38:36 15:38:39 15:38:43 15:38:45 15:38:48

The question here is, does Qwest provide a stable testing environment for CLECs. Qwest 15:38:51 15:38:54

does, both its SATE environment and its interoperability environment. There are 29 CLECs total that have successfully built BDI interfaces using these environments. 26 of them use interoperability and the interoperability environment. And we've had 10 now that have successfully used the SATE environment. 15:38:59 15:39:03 15:39:06 15:39:12 15:39:14 15:39:17 15:39:19

And I don't think I will readdress any of the issues that came up this morning. I'm sure AT & T will have some comments on it. I'll probably address that some in the rebuttal section of my presentation. 15:39:26 15:39:28 15:39:32 15:39:34 15:39:40

The fifth prong is the efficacy of documentation available for the purpose of building an electronic gateway. There's actually one piece wrong here in these bullet points. HP has successfully built to three releases of EDI rather than four. I was wrong when I did that yesterday. 15:39:42 15:39:45 15:39:46 15:39:51 15:39:56 15:39:59 15:40:04

But HP demonstrated during the test that a CLEC can come in to Qwest's region and build interfaces to Qwest's computer-to-computer interfaces. They did it first to one release and 15:40:05 15:40:10 15:40:14 15:40:18

then migrated to two additional releases as well. 15:40:21
So they proved that you can originally build the 15:40:24
interface and then migrate to additional 15:40:26
interfaces as well. 15:40:29
We've also had evidence that as 26 CLECs do 15:40:30
the same thing or 29 CLECs do the same thing in 15:40:34
real life and that also if you look at the final 15:40:40
report, the draft final report from HP and KPMG, 15:40:44
there are numerous places within that report 15:40:49
where they verify that our documentation and 15:40:52
maintenance is adequate for CLECs to build to our 15:40:56
interfaces. 15:40:59
The sixth and final issue the FCC looks at 15:41:10
is the pattern of compliance with the process. 15:41:10

This is probably what you're going to hear most 15:41:14
about from AT & T is that the new redesigned 15:41:17
process is -- hasn't been completely finished, 15:41:22
all the details haven't been completed and we 15:41:26
haven't demonstrated over time that we can comply 15:41:31
with that process. In fact, we have demonstrated 15:41:33
that we can comply with that process. 15:41:37
All of the significant impacts -- sections 15:41:40
of change management that you'll find in the 15:41:44

standards document or any other change management process in the country have been implemented for many months now. They're subject to change the redesign in the future, but they're also subject to change through the change management process itself in the future. 15:41:48 15:41:51 15:41:54 15:41:57 15:42:01 15:42:03

The FCC recognizes that this is not a static process, it is subject to change. But we've reached agreement with CLECs. We've implemented those agreements. And the documentation we've provided you demonstrate that we've been able to comply with the agreements that we've reached. 15:42:05 15:42:08 15:42:11 15:42:14 15:42:17 15:42:19

We provide information that we've met approximately 98 percent of the milestones across the board in both the product and process and in the systems part of change management. 15:42:23 15:42:27 15:42:31 15:42:34

The one closed/unresolved exception that remains from the past on this point is exception 3094. And 3094 resulted from a product and process change that Qwest proposed while there was still a lot of uncertainty about what the final product and process -- process would be. 15:42:40 15:42:43 15:42:47 15:42:57 15:43:01 15:43:06

Since KPMG issued this exception and, 15:43:12

actually, since we decided to close it unresolved, the parties have reached agreement on the product and the process piece of change management. 15:43:18 15:43:21 15:43:25 15:43:27

And this particularly relates to Qwest's proposed changes in product and process. And we have reached agreement not only on the concepts but on the actual language of the document. That has been incorporated into the document contained on the website. It is -- it has been implemented by Qwest. It was implemented in April 1st -- on April 1st, and some changes took place in the next redesign meeting and finally implemented the entire new process on April 16th. 15:43:28 15:43:31 15:43:36 15:43:39 15:43:43 15:43:45 15:43:50 15:43:57 15:43:59 15:44:04

As a result of these developments, we've asked KPMG to take another look at exception 3094. And they're continuing to look at that and may have some further things to say in their final, final report. 15:44:07 15:44:09 15:44:12 15:44:15 15:44:17

As I mentioned, the aspects of redesign, each section of redesign as we've reached agreement has been implemented. And the final page of the presentation demonstrates -- lists 15:44:22 15:44:30 15:44:33 15:44:36

some of the things that have been agreed to and implemented by the parties. 15:44:40 15:44:42

The first is an escalation and dispute resolution process. Talked about that some before. It is standard as -- in terms of what other RBOCs do. We've implemented essentially the same dispute and escalation process that other RBOCs use. We are going one step further and implementing a stay process that we're still working on the language with CLECs with. But in terms of the nuts and bolts of the dispute resolution and escalation, that has been implemented. 15:44:45 15:44:48 15:44:50 15:44:55 15:44:58 15:45:02 15:45:06 15:45:09 15:45:13 15:45:16 15:45:18

We've implemented an OSS interface 12-month development view that includes the ability of CLECs to prioritize changes proposed not only by CLECs but also by Qwest. So all of the changes to the interfaces for each release are put in the -- our -- are considered together by Qwest and the CLECs. 15:45:20 15:45:24 15:45:29 15:45:34 15:45:37 15:45:42 15:45:46

CLECs each get one vote. Qwest gets one vote. So every company gets one vote. We all vote on the rankings of the prioritization of the 15:45:47 15:45:51 15:45:54

changes. And we implement the ones that meet 15:45:58
the -- that essentially Qwest can fit in the next 15:46:01
release. 15:46:07
This is a new process that was implemented 15:46:09
for the 10.0 release. We've gone through that 15:46:11
prioritization process for 10.0. We're going 15:46:16
through it for 11.0 right now. 15:46:18
The one piece that CLECs might mention is 15:46:22
that at first Qwest insisted that its changes 15:46:25
that were necessary to meet its commitments in 15:46:30
the PIDs and in PAPs be considered regulatory 15:46:33
changes, and regulatory changes are automatically 15:46:37
contained in the next release or whatever release 15:46:40
necessary to meet a regulatory mandate. 15:46:44
Unfortunately, the Colorado commission ruled 15:46:47
against Qwest on that point. But it did state 15:46:50
that since the 10.0 and 11.0 prioritization 15:46:53
process have already gone through, that the three 15:46:57
changes in 10.0 and two changes in 11.0 that were 15:47:00
considered regulatory would stay in those 15:47:05
releases but on a going-forward basis, all 15:47:08
changes will be lumped together, including the 15:47:13

ones that are necessary for Qwest to meet its 15:47:18

requirements in PIDs and PAPs.

CLECs also have the ability to submit changes; and we have implemented new processes, both on the product and process side and on the OSS side for handling those changes and dealing with issues as they come up.

A few of the other things that we've done are implemented new processes for retirement of interfaces, for implementing new interfaces and also for dealing with what are called production support issues, which are issues that come up on a regular, everyday basis where problems might develop with the interface and the processes for Qwest to deal with those issues as identified by both Qwest and CLECs in communications regarding resolution of those issues as they are resolved.

So the bottom line is, Qwest has developed and has implemented a state-of-the-art change management process. It goes further than other RBOCs do across the country. We have reached resolution of all of the significant issues that CLECs have brought to the table. We're very proud of the work we've done on this, in this area and despite the fact that KPMG didn't have

the time to look at a couple of the issues. They have -- they have been implemented for some time now. And we have demonstrated in our filings that we've been able to meet the requirements of those processes, and we have an overall 98-percent performance level of the requirements of the change management process.

COMMISSIONER LANDIS: Could you -- I take it you're done, Andy?

MR. CRAIN: Yes.

COMMISSIONER LANDIS: Could you tell me practically, take me through the process, when you decided to do a local PIC freeze, offer that to your customers, how does the change of management fit into that kind of a corporate decision on how you conduct your business, business? Or does it?

MR. CRAIN: It -- local PIC freeze is a good example because it's an issue that is actually currently being worked through change management.

The -- to the extent that a local -- a local freeze -- the local PIC freeze requires changes for what we do with CSRs and requires changes for how they would do things like lift the freeze

and issues like that.

The product and process, change management process, has four separate categories of different kinds of changes. And some of the changes involved -- and I can't really tell you off the top of my head which category they would fall in, but they go from anywhere from small changes that are just basically changed and then noticed -- and these are things, like, changes to our documents that are -- are changes to make the words sound better or make them more clear and that sort of thing, all the way up to very significant changes that require Qwest to submit a CR to the change management body and have that CR go through a process of consideration and discussion.

The local service freeze itself is currently an issue that is being worked through the product and process, change management process. AT & T has requested some changes to the way we handle the local freeze and how those are lifted so that CLECs can migrate a customer to them.

Because of the urgency of those issues, Qwest agreed to treat AT & T's request on an expedited basis. We have met with AT & T and

other CLECs on numerous occasions. We are working through the issues with them. We have implemented new processes as a result of those discussions. 15:51:48 15:51:51 15:51:54 15:51:58

Now, I will not tell you you can't -- and can't tell you, unfortunately, that that process has gone 100 percent smoothly. We still have issues to work out between us and the CLECs on that. Hopefully the new processes we've implemented will address the CLECs' concerns. But we're continuing to meet with them and continuing to work this process through change management as appropriate. 15:51:59 15:52:02 15:52:04 15:52:07 15:52:09 15:52:13 15:52:15 15:52:17 15:52:20

COMMISSIONER LANDIS: Did I understand you to say that you've been operating under a CMP process for some several months or that other RBOCs like Verizon have been operating under? 15:52:23 15:52:23 15:52:25 15:52:29 15:52:33

MR. CRAIN: Sure. 15:52:34

COMMISSIONER LANDIS: Has it been Qwest, or has it been other RBOCs you're talking about? 15:52:34 15:52:35 15:52:38

MR. CRAIN: Qwest has operated a 15:52:38

change management process for several years. We 15:52:40
first implemented a process on the OSS systems 15:52:42

piece and have been operating that for I think 15:52:45
well over three years now. 15:52:50
At the end of 1999, we implemented the 15:52:54
product and process part of change management. 15:52:56
COMMISSIONER LANDIS: Okay. And 15:53:00
that's what I'm getting to. And then I'm going 15:53:00
to get off this and let -- 15:53:02
MR. CRAIN: Yes. 15:53:03
COMMISSIONER LANDIS: -- Letty get 15:53:04
on with her presentation. You have had a CMP. 15:53:05
How did that operate when you decided to offer a 15:53:09
local PIC freeze to your customers? What did 15:53:12
Qwest do when you decided this is a service we 15:53:14
want to sell, based under your change management 15:53:17
process? Who did you notify? Did you notify 15:53:26
them? How did they know about it? 15:53:26
MR. CRAIN: To be honest -- 15:53:26
COMMISSIONER LANDIS: I would 15:53:28
prefer that you would be. It makes it easier for 15:53:28
everybody. 15:53:32
MR. CRAIN: For once, I'm going to 15:53:32

be honest. Oh, for the record, that was a joke. 15:53:33
I don't know exactly how that was noticed to 15:53:46
the CLECs. It was done I believe under the -- 15:53:50
we've been operating a change management process 15:53:55

for some time. As we've implemented and reached 15:53:58
agreement on the new changed processes, we've 15:54:01
been implementing those and replacing those 15:54:04
pieces of the old process over time, now the old 15:54:06
process is completely subsumed by the new one. 15:54:09
The notifications under that would have gone 15:54:15
out under the old change management process. And 15:54:17
I don't know how they were -- how those notices 15:54:20
were sent. 15:54:24
COMMISSIONER LANDIS: Okay. 15:54:26
COMMISSIONER BOYLE: Could I ask, 15:54:27
how do you determine what is the importance of a 15:54:28
change? You mentioned that perhaps there was a 15:54:30
word change or something like that. The PIC 15:54:33
freeze, even though it was under the old change 15:54:37
management procedure, whatever that may have 15:54:39
been, when that -- we first became aware of it 15:54:41
and as discussion continued to ensue, I 15:54:47
discovered that even Qwest employees were unaware 15:54:50

of that change and that CLECs allegedly were told -- the comment that was made to me and I think it was in a hearing, that, well, they just have to look it up in the SGAT. That's really something that was as important as that, freezing a local customer, so it created a customer need

to call the company and tell them they were changing, it -- it raises a question, you know, what level -- where do you decide something is important enough to bring it up so that people are really alert to change as opposed to something that might be rather vague, just a comma missing or something like that?

MR. CRAIN: Sure. We have over the last several months worked with CLECs and created a list of levels of changes. And we've tried to be as comprehensive as we possibly could.

So we have lists of changes that fall into each level, level one, which is immediate notice; level two, which requires a certain time period, I think 14 days; level three, which requires at least a 30-day notice and some process within that timeframe to work through issues; and then

level four, which requires an actual submission of a CR. We've tried to develop as comprehensive list as possible. 15:56:10 15:56:13 15:56:19

Under the product and process new process, if there's something that doesn't fall into a category, it automatically defaults to a level three, which is a pretty serious change and requires significant notice and processes to work 15:56:20 15:56:23 15:56:27 15:56:30 15:56:33

out issues between the parties. 15:56:36

I -- in terms of the local service freeze, I don't know what notices were originally sent. But I do know that since the -- since we have been working through the issue on an expedited basis with AT & T and other CLECs through the change management process, we have implemented new issues, we have sent out notices of new processes that we've implemented for being able to lift those freezes, new numbers to call, new ways of getting all the parties together on the phone at once to expeditiously lift those freezes. 15:56:41 15:56:48 15:56:54 15:56:58 15:57:01 15:57:04 15:57:06 15:57:10 15:57:14 15:57:17 15:57:19 15:57:24

So we are working that process through change management. And there have been a 15:57:25 15:57:27

significant number of notices that have gone out through that process. And they go out to a list of -- notification list for all CLECs. 15:57:29 15:57:31 15:57:35

COMMISSIONER BOYLE: And all your 14 states don't have a freeze, do they? 15:57:45 15:57:47

MR. CRAIN: All 14 states don't have freezes, that's correct. 15:57:53 15:57:56

COMMISSIONER BOYLE: All right. Thank you. 15:57:58 15:57:58

MR. POST: Just -- go ahead. 15:57:59

COMMISSIONER LANDIS: On the -- on the local PIC freeze issue and then I'll get off of that, with respect to parity, you offer it to your customers in some states. Did you also make that service available to your customers at -- your resale customers that just buy the loop? Were they also afforded the CLEC there to have their service frozen? Or do you know? 15:57:50 15:57:52 15:57:55 15:57:58 15:58:00 15:58:03 15:58:06 15:58:10

MS. VINJAMURI: It's in our testimony in the previous docket, I believe. 15:58:17 15:58:18

COMMISSIONER LANDIS: You're telling me to go look it up? 15:58:20 15:58:21

MS. VINJAMURI: No. I don't know 15:58:23

if Mr. Crain actually knows the answer to that.
COMMISSIONER LANDIS: Okay.
MS. VINJAMURI: I believe it's in the testimony of the previous docket by Mr. McIntyre. Cox is here if they want to dispute that. I believe the testimony was -- I don't have it in front of me -- is that it was offered to the wholesale resale customers.
COMMISSIONER LANDIS: Okay.
MS. VINJAMURI: I can find that page number from the transcript.
COMMISSIONER LANDIS: Other

questions of -- any more, Anne, before we move to Letty?
Go ahead, Chris.
MR. POST: I just have one question. I guess going back to that change management issue just a little bit, when you're discussing or talking about the notices that are sent based upon the different levels, that notice doesn't necessarily proceed or -- I guess what I'm asking is, Qwest can implement a service such as the PIC freeze without getting permission,

obviously, from the CLECs. But what type of notice are you talking? Are you preempting the actual rollout of the service with those notices, or are they notices saying Qwest has already rolled out this service? 15:59:12 15:59:14 15:59:18 15:59:21 15:59:23

MR. CRAIN: It depends on the category of the change. And category one changes are effective with the notice. 15:59:25 15:59:26 15:59:29

Category four changes take I believe at a minimum somewhere between 35 and 45 days. 15:59:32 15:59:35

Category three changes take at least 30 days. 15:59:39 15:59:41

MR. POST: Okay. 15:59:42

COMMISSIONER LANDIS: Okay. With 15:59:45

that then, Letty, if you're ready, you want to, Ms. Friesen, talk about -- 15:59:49 15:59:53

MS. FRIESEN: Sure. 15:59:56

COMMISSIONER LANDIS: Talk about CMP. 15:59:57 15:59:57

MS. FRIESEN: Can you hear me? 15:59:59

COMMISSIONER LANDIS: Yes, Ma'am. 16:00:00

MR. POST: Yes, we can hear you. 16:00:01

MS. FRIESEN: Can you hear me? 16:00:03

MR. CRAIN: Yes. 16:00:07

MS. FRIESEN: Okay. Sorry. We've heard Andy suggest that Qwest has had a process in place since 1999. But what he's not telling you is that that CMP process was essentially not functional and inefficient. In fact, consistent with the actual evidence that AT & T put into the record in the workshop, the third parties also agreed that Qwest's CMP process, that's the old process, was deficient because it was inefficient and the response intervals were far too long for use. And Qwest didn't adhere to the CMP document that it had in place at the time. 16:00:08 16:00:12 16:00:16 16:00:21 16:00:26 16:00:31 16:00:33 16:00:38 16:00:42 16:00:44 16:00:47 16:00:50

So that's the genesis of the redesign of the CMP process, which really didn't begin in earnest until mid July 2001. 16:00:52 16:00:55 16:00:59

You've also heard Qwest suggest that their CMP process and with respect to their CMP process, they've done more than any other RBOC; and, therefore, I guess the commission should take that at face value because what they haven't done is offer you any evidence that they have done anything more than other RBOCs have done. 16:01:04 16:01:06 16:01:09 16:01:16 16:01:19 16:01:24 16:01:26

In fact, what's happened is that Qwest has produced through the basic collaborative plan or document while its 271 case is pending -- and that's significantly different than what the other RBOCs had done; so to the extent that Qwest claims it has done more than any other RBOC in its 271 process, that might be true. But with respect to its CMP plan as a whole, it's not true.

What the redesign process did or is in the process of completing is developing the basic document that governs how the CMP process works and instructs both CLECs and Qwest on how to function inside the CMP venue.

What Qwest has done -- and I think that Andy touched on this a little bit -- is that they've developed a priority list of changes to the change management process that needed to be made

in order to create sort of the core functions for the CMP documents.

And I've submitted -- and hopefully you've all got it there -- some exhibits. And within the Exhibit 1 that AT & T is offering today, that

is our brief. And attached to that brief is an Exhibit A which is the priority list of sort of the core or significant items that AT & T and other CLECs believed the CMP document should contain. 16:02:51 16:02:54 16:02:57 16:03:01 16:03:05

Now, as Andy had said, there are no outstanding issues in dispute in relation to that priority list; but there is outstanding work to be finished. And so the CLECs and Qwest are working on drafting the language that goes into the master redline document. And that's not yet done. 16:03:06 16:03:09 16:03:13 16:03:15 16:03:19 16:03:22 16:03:25

As soon as that's done and that language is incorporated into the CMP document, then AT & T would suggest to you that you do have a final CMP document that's consistent with what the FCC is looking for Qwest to adhere to over time. Without the core provisions in it, though, you don't have that document. And so Qwest would then fail in meeting the first criteria of the 16:03:26 16:03:29 16:03:33 16:03:37 16:03:39 16:03:42 16:03:45 16:03:47

FCC's five criterion test. And that criteria was that the CMP document is clearly organized and readily accessible. 16:03:51 16:03:59 16:04:01

Generally the FCC has looked at CMP documents that are, you know -- that -- where the plan is contained in a single CMP document, not in multiple drafts. And what Qwest has for you now on their website is merely a draft. It does not contain all the core provisions. So Qwest does not meet that first requirement. 16:04:04 16:04:08 16:04:10 16:04:13 16:04:24 16:04:24 16:04:24

Now, I would suggest to you that Qwest probably, along with the CLECs, will probably have that document drafting done sometime this June. So that -- so we're right on the precipice of conclusion with respect to the first criteria of the FCC's test. But we haven't yet passed it. 16:04:25 16:04:27 16:04:30 16:04:33 16:04:39 16:04:42

I believe that Andy went through all of the five criteria of the FCC. And he also mentioned to you that Qwest has to demonstrate a pattern of compliance or adherence to its CMP plan over time. So what I'm going to do now, after having discussed sort of the CMP document and the status of the CMP document, which goes to criteria number one, I'm going to go through the rest of the FCC's criteria. 16:04:50 16:04:52 16:04:55 16:04:57 16:05:03 16:05:06 16:05:09 16:05:13 16:05:15

The second criteria that Qwest should meet 16:05:17

and actually doesn't meet is that it should -- is that Qwest should provide a stable testing environment that mirrors production. And this goes to the SATE test that Qwest is supposed to provide for CLECs to test their interfaces with Qwest's test interfaces to insure in the test environment that they're functioning properly. So we don't really have to test things on live customers. 16:05:21 16:05:33 16:05:36 16:05:38 16:05:41 16:05:47 16:05:51 16:05:55 16:05:56

Because the SATE does not provide a stable test environment that mirrors production, it can't meet the FCC's fourth criteria. And I'm sorry, I was a little bit confused. There are five criteria. I'm going to go through the criteria Qwest failed to meet. 16:06:03 16:06:08 16:06:10 16:06:14 16:06:16 16:06:19

It doesn't meet the fourth criteria of a stable testing environment for a couple of reasons. The SATE itself is -- has been examined by KPMG, as Qwest has noted; and in exception 3077, KPMG found there were five things wrong with it. It found SATE does not generate post-order responses in the same manner as they are created in the production environment. 16:06:21 16:06:23 16:06:24 16:06:32 16:06:39 16:06:44 16:06:46 16:06:49

It found that flow-through of orders are not 16:06:50

supported by SATE. 16:06:53

It found the volumes of order responses 16:06:54
supported in SATE is restricted due to the manual 16:06:57
process of handling. 16:07:00

And it also found that the data contained 16:07:02
within the order responses is not consistent and 16:07:04
may not mirror the data that would be found in 16:07:08
the production responses. KPMG then has 16:07:11
ultimately closed this particular exception 16:07:15
unresolved. 16:07:22

In addition to that, they've generated 16:07:25
exception 3095. And there they say that although 16:07:26
Qwest committed to work with the CLECs, KPMG 16:07:30
Consulting noted that the test environment does 16:07:35
not precisely and accurately reflect the 16:07:38
offerings due to the production environment or of 16:07:40
new releases of the production environment. 16:07:44

So with respect to SATE, they've got a test 16:07:46
environment that does not mirror production and 16:07:49
it does not -- or at least KPMG has not been able 16:07:54
to confirm that Qwest is complying with its 16:07:59
releases. 16:08:02

Those are two exceptions of the third-party 16:08:03
tester. And what Qwest has done in response to 16:08:07
that in the filings in various states in regard 16:08:10

to CMP is to offer up its interoperability test. And I think you heard Andy talk about the interoperability test and suggest SATE in combination with the interoperability test should be sufficient. 16:08:13 16:08:17 16:08:20 16:08:24 16:08:27

Well, there's a problem with that, too, because the KPMG issued exception 3029 which stated, among other things, that Qwest IMA and EDI interoperability testing environment did not offer co-providers with sufficient testing capabilities. In fact, I think it's fair to say that because of the deficiency found in the interoperability test, Qwest moved to the SATE test environment to alleviate those problems. 16:08:28 16:08:30 16:08:34 16:08:37 16:08:42 16:08:44 16:08:47 16:08:51 16:08:54

And that's what KPMG found when it closed exception 3029, that although their operability testing could hinder CLECs' ability to test, Qwest promised to move to SATE and SATE was going to solve the problem. 16:08:57 16:09:01 16:09:04 16:09:10 16:09:14

Well, SATE obviously does not solve the problems yet. And the combination of interoperability and SATE together still don't solve the problem. 16:09:14 16:09:17 16:09:19 16:09:21

So Qwest failed to meet that particular criteria of the FCC. It's not a -- it's not in 16:09:23 16:09:27

1	the nature of we meet it part way, isn't that	16:09:31
2	okay. But the FCC has said that they have to	16:09:35
3	provide a stable testing environment that mirrors	16:09:37
4	production. And they do not do that today.	16:09:46
5	And the other thing that Andy talked about	16:09:48
6	or touched on and did this sort of -- I would	16:09:48
7	call the super criterion of the FCC, and that's	16:09:52
8	demonstrating a pattern of compliance. Because	16:09:55
9	CMP was redesigned or the redesign process began	16:09:59
10	in mid July, the document itself which instructs	16:10:02
11	everybody how to behave is still coming together.	16:10:08
12	And it's not complete. So it's virtually	16:10:11
13	impossible for Qwest in some cases to show a	16:10:13
14	pattern of compliance over time with even the	16:10:15
15	basic core provisions of its CMP document.	16:10:18
16	But with respect to what they do have	16:10:22
17	available, I would like to draw your attention to	16:10:24
18	some of the outstanding exceptions with respect	16:10:27
19	to the CMP process itself, separate and apart	16:10:31
20	from SATE.	16:10:35
21	There are three exceptions that KPMG has	16:10:36
22	been forced to close as either unresolved or	16:10:40
23	inconclusive; namely, those exceptions are 3094,	16:10:43
24	3010 and 3111.	16:10:46

25 With respect to exception 3110, on April 16:10:52

1	25th, I believe that KPMG concluded that -- and	16:10:56
2	I'm going to read this to you -- "Due to the	16:11:02
3	recent implementation of these process changes,	16:11:04
4	KPMG Consulting has not been able to observe	16:11:07
5	adherence to the documented process for	16:11:11
6	notification interval management. KPMG will not	16:11:14
7	be able to determine if Qwest's documents --	16:11:18
8	documented processes provide the ability to	16:11:21
9	perform adequate tracking or verification for	16:11:23
10	adherence to the documentation for these	16:11:26
11	incurables."	16:11:29
12	Likewise, with respect to exception 310,	16:11:31
13	KPMG went on to suggest that it would not be able	16:11:36
14	to determine if Qwest's documented processes	16:11:40
15	provided the ability to perform adequate tracking	16:11:43
16	adherence to the document release intervals in	16:11:46
17	the master redline, simply because the redesigned	16:11:48
18	process and the intervals have not been in place	16:11:51
19	a sufficient amount of time.	16:11:54
20	COMMISSIONER LANDIS: So, Letty,	16:11:57
21	how would that be resolved? How do you resolve	16:11:58
22	that --	16:12:00

MS. FRIESEN: Pardon? 16:12:01
COMMISSIONER LANDIS: -- problem, 16:12:04
the fact that they haven't been there a 16:12:05

sufficient length of time? 16:12:07
MS. FRIESEN: Right. 16:12:09
COMMISSIONER LANDIS: What do you 16:12:10
want -- 16:12:10
MS. FRIESEN: No one has been able 16:12:11
to determined whether or not Qwest has adhered 16:12:13
over time to that process. 16:12:15
With respect to exception 3094, Qwest 16:12:18
asserts that its CMP provision addressing product 16:12:21
and process changes is more complete and 16:12:24
comprehensive than any other CMP in the country. 16:12:27
And there's really no evidence in any record to 16:12:30
support that assertion. 16:12:33
In fact, if you take a look at FCC 16:12:36
documentation, they have a very well-documented 16:12:38
product and process plan in place. Similarly, 16:12:41
you know, just because -- just because other 16:12:46
RBOCs don't have a product and process plan for 16:12:49
their CMP documents, Qwest's product and process 16:12:54
plan in part is something that arose in the 271 16:12:58

workshops. And it arose out of necessity because Qwest's SGAT and the thing that they were asking you to rely upon for 271 approval in many instances had never even been implemented. 16:13:03 16:13:08 16:13:11 16:13:16

So they were not in a position to actually 16:13:19

prove to any of the state commissions whether or not they were doing what their SGAT document said they were doing. 16:13:23 16:13:26 16:13:28

So what AT & T and other CLECs did is point out that the technical publications and other documents that sort of underlie and instruct the field personnel on how to behave and what to do were inconsistent with that SGAT. 16:13:30 16:13:35 16:13:37 16:13:40 16:13:43

That being said, Qwest offered to change their product and process catalogue, their technical publications and things like that to make them consistent with the SGAT. And they wanted to do that in the CMP process. So that in part and parcel is why you have a product and process change management provision that is more at issue than perhaps it was in other -- in other RBOCs' 271 proceedings. 16:13:46 16:13:50 16:13:56 16:13:58 16:14:00 16:14:02 16:14:07 16:14:11 16:14:14

Qwest made it an issue. Qwest promised to 16:14:17

do certain things in the 271 process. And AT & T and the other CLECs are simply asking Qwest to keep that promise. 16:14:20 16:14:24 16:14:27

Nevertheless, exception 3094 points out that KPMG has not been able to confirm that Qwest had adhered to its product and process change process over time; and, in fact, the actual evidence that 16:14:28 16:14:31 16:14:35 16:14:40

the CLECs have of some of these things that have been implemented shows to us that Qwest is not, in fact, adhering over time but, rather, that Qwest is missing the boat, it's not doing what it's supposed to do. 16:14:43 16:14:46 16:14:50 16:14:53 16:15:00

Now, you will hear Qwest and I would expect you to hear this today that, well, the CLECs only brought up a handful of examples and that's all they can come up with. 16:15:01 16:15:03 16:15:07 16:15:10

It isn't all we can come up with. But it is examples that shows a lack of adherence over time, bearing in mind that there is very little evidence out there at all. When there is evidence that shows a lack of compliance, then I think that that has or should carry substantial weight. 16:15:11 16:15:19 16:15:19 16:15:19 16:15:21 16:15:24 16:15:26

And other -- I'll roll through some of these quickly because they are contained in Exhibit 1, which was AT & T's brief, in more detail. But basically we have discovered that the CLECs as a joint community have discovered Qwest failed to adhere to notification of retail changes and retail parity process, that Qwest failed to adhere to its timing of notifications of CLEC impacting change process, that Qwest 16:15:28 16:15:31 16:15:33 16:15:39 16:15:41 16:15:45 16:15:47 16:15:50 16:15:53

failed to assist and provide an assistive process for responding to AT & T's list of the local freeze issue which you just discussed a little bit. And there I will go into some detail because that -- that seems right for discussion. There the exhibit that we have in the record, in addition to some responses to Qwest's April 30th filing that we will be offering, those exhibits are -- our exhibits, that is, the CLECs', showed that Qwest implemented the local PIC freeze and it did so without first establishing a clear or functioning process for removal of the local PIC freeze when the end user or when the customer wants to change to a 16:15:59 16:16:04 16:16:08 16:16:10 16:16:14 16:16:19 16:16:22 16:16:26 16:16:29 16:16:32 16:16:37 16:16:40 16:16:42 16:16:46

competitor. AT & T sought to resolve its problems through the CMP process which seemed a likely candidate for resolution and expedited resolution because this -- this local freeze issue didn't impact AT & T alone but, rather, impacted the entire CLEC community if Qwest had adequately lifted the local freeze. In any event, AT & T discovered in taking this to CMP that Qwest in the meetings didn't provide the appropriate subject matter experts to

talk about or solve the problem and that we repeatedly encountered folks at Qwest who didn't know anything about the freeze situation or how to lift it. While Qwest has provided an additional 800 number so that even though they can't lift the freeze timely or in accordance with the federal law the way they should, we can at least get the customer on the line now with Qwest and hopefully get the freeze lifted. But that in and of itself is certainly not a solution to the local PIC freeze problem that

AT & T has encountered. And it really highlights 16:17:56
the fact that the CMP process, especially on an 16:17:59
expedited-request basis, is not functioning as 16:18:02
efficiently or as well as it ought to. 16:18:05
Finally, with respect to the adherence 16:18:13
issue, Qwest did not adhere to the product or 16:18:16
process support process. And that's with respect 16:18:19
to the wholesale help desk and other issues of 16:18:21
that nature. 16:18:24
Now, that's -- those are kind of highlighted 16:18:26
in our brief. And I won't discuss that anymore. 16:18:29
But those are the actual experience or describe 16:18:31
some of the actual experiences that CLECs have 16:18:35

had. 16:18:35
All of this evidence was given to the 16:18:38
Colorado commission some time ago. And Colorado 16:18:41
in reviewing Qwest's evidence and in reviewing 16:18:47
the CLECs' evidence, determined -- and you have 16:18:50
this in Exhibit 2, which hopefully has been 16:18:53
handed out too. In order setting status 16:19:01
conferences they gave a commission decision 16:19:07
meeting, there you have -- there you can see that 16:19:07
the Colorado commission found Qwest's evidence to 16:19:10

be insufficient, determining that it would either have to give Qwest a thumbs down on the CMP process, that is, it doesn't pass the FCC's criterion, or allow Qwest to put in some more evidence. Qwest chose to put in more evidence. 16:19:12 16:19:15 16:19:18 16:19:22 16:19:25

And I've attached for your review also Exhibit 3, which is the commission decision memorializing Qwest's desire to put more evidence into the record to try and clear the FCC's five-criterion hurdle, which it has not been able to do. 16:19:28 16:19:31 16:19:34 16:19:37 16:19:41 16:19:44

Very briefly, what Qwest has done then to enter a record in Colorado is identical to what it filed in Nebraska on April 30th, 2002. And that basically contains the affidavit of Linda 16:19:52 16:19:58 16:20:01 16:20:07

Notarianni and a few other folks talking about the interoperability test as essentially a substitute for failed SATE. And it goes into further evidence proffered and I believe it's Exhibit I, where it -- it's simply a truckload of EDI manuals and other documents that KPMG had already reviewed. 16:20:10 16:20:13 16:20:18 16:20:22 16:20:23 16:20:26 16:20:30

Nonetheless, this new information that was 16:20:31

dumped into the Colorado record and which exists in the Nebraska record does nothing to resolve the issues that are still outstanding with respect to the deficiencies in Qwest's evidence that it passes the FCC's five criterion plus adherence over time. 16:20:35 16:20:44 16:20:44 16:20:44 16:20:47 16:20:54

So AT & T and other CLECs submit and continue to submit that Qwest's evidence fails and it fails because it falls into the four categories that I've already discussed, one was that the information relating to the real and significant core elements within the CMP documentation is not in the CMP documentation, therefore, it's not clearly organized and readily accessible; two, that Qwest hasn't provided a stable testing environment that mirrors production. Qwest hasn't done that. 16:20:55 16:20:59 16:21:03 16:21:05 16:21:08 16:21:12 16:21:14 16:21:17 16:21:20 16:21:24 16:21:26

Draft final report if you look at Exhibit -- Exhibit 4 to the materials that AT & T handed out today and you turn to the test, 24.6 in the draft final report, this discusses SATE. If you go to page 592 of that report and to page 610, you'll see a couple of not satisfieds with respect to 16:21:29 16:21:42 16:21:45 16:21:52 16:21:58 16:22:02

some of the functioning in the test environment and some of the material that I went over before. 16:22:06 16:22:10

So Qwest has failed to provide a stable testing environment that mirrors production. Like I said, the interoperability test is not a substitute and used in combination still does not get SATE to where it needs to be. 16:22:12 16:22:15 16:22:17 16:22:20 16:22:22

And, three, Qwest hasn't demonstrated a pattern of compliance or adherence to its CMP over time. 16:22:24 16:22:26 16:22:29

And, four, you know, by Qwest's own admission, its product and process work related to the CMP process is still somewhat incomplete and not done. What Qwest is asking you to do today or appears to be requesting every commission to do is to pass it before it has finished the work that it needs to do. 16:22:31 16:22:34 16:22:36 16:22:39 16:22:44 16:22:46 16:22:51

And I suggest the work that it needs to finish is not that far from completion. Qwest 16:22:53 16:22:55

should not be given the pass. In other words, there's no way the commissions can find that Qwest meets the five criteria of the FCC until Qwest actually meets them. 16:23:00 16:23:02 16:23:04 16:23:08

We're just short of the finish line in this race, and Qwest wants to get the medal for winning the race before actually having to cross that line. 16:23:10 16:23:12 16:23:15 16:23:17

Now, I don't think the FCC has allowed any RBOC in the past to do that. And you shouldn't allow Qwest to do that. Qwest should actually have to finish the job. 16:23:18 16:23:21 16:23:24 16:23:26

Because the CMP document will be done probably in June where you will have a single final CMP document and because Qwest has asked KPMG to retest a few of the CMP exceptions that were indeterminate and closed/unresolved, I think that there's ample time for Qwest to get the job done and the commissions to review CMP on a completed document with some input from a third-party tester as to whether or not Qwest adheres over time. 16:23:27 16:23:29 16:23:33 16:23:35 16:23:43 16:23:47 16:23:51 16:23:54 16:23:57 16:24:00

If you don't wait for that, then what Qwest has got you doing is saying, good enough, we don't really have to meet the five criterion, 16:24:02 16:24:04 16:24:08

drafts are okay. And I don't think the FCC is going to accept a draft CMP or draft process or 16:24:11 16:24:14

the promise to perform when Qwest hasn't performed even once with the observance of a third-party tester. 16:24:20 16:24:23 16:24:25

So as most CLECs would concur is that you really ought to wait until Qwest can actually pass the test. And that's all I have to say today. 16:24:26 16:24:33 16:24:35 16:24:39

COMMISSIONER LANDIS: Letty, Frank Landis here. You talked about the Colorado order and what they're doing there. And in reading, it appears to me that they couldn't -- they didn't have sufficient evidence in which to pass Qwest and they needed an in banc workshop or basically what this commission is doing today before they could enter an order or make that determination. Is that a fair characterization of what the hearing officer ordered or stated? 16:24:40 16:24:42 16:24:46 16:24:48 16:24:52 16:24:57 16:25:01 16:25:03 16:25:07 16:25:10

MS. FRIESEN: I think if you take a look at Exhibit 2, paragraph E, it says there that the commission can't decide on the current record. And let me tell you -- 16:25:13 16:25:13 16:25:19 16:25:22

COMMISSIONER LANDIS: It says -- oh, no. I think it says -- 16:25:24 16:25:25

MS. FRIESEN: -- everything filed in Nebraska with the exception of the April 10th filing that they did was filed in Colorado. And Colorado has seen all of that; so with that, commission determined that that avenue came up short where Qwest was concerned, it gave Qwest some options. 16:25:27 16:25:27 16:25:30 16:25:33 16:25:36 16:25:42 16:25:44

And the options are described in Exhibit 3, which is the commission decision regarding statement of generally available terms and conditions, change management process impact issue and SGAT compliance with section 271. 16:25:48 16:25:51 16:25:54 16:25:55 16:25:59

So, Commissioner Landis, I think that you're fairly correct in what you're saying except that it's important to recognize that that commission not only had a staff member going to all the CMP redesign meetings but it's also already seeing all of the evidence Qwest has had to offer and recognized that Qwest's offering has come up short, that it can't represent to the FCC that Qwest passes those five criterion, in addition to the compliance piece. 16:26:04 16:26:13 16:26:14 16:26:16 16:26:21 16:26:24 16:26:26 16:26:30 16:26:38

COMMISSIONER LANDIS: All right. I guess I read the order to say they want a final workshop on the issue of CMP. And I guess it's 16:26:42 16:26:43 16:26:45

my impression that that's exactly what the Nebraska commission is doing today and that's what they wanted in -- apparently I would think they wanted an opportunity to question Qwest's assertions and test workshop and -- 16:26:49 16:26:51 16:26:55 16:26:58 16:27:03

MS. FRIESEN: In Colorado we've already had what's been coined an in banc presentation. It's a little bit like what we're doing today -- 16:27:07 16:27:09 16:27:12 16:27:14

COMMISSIONER LANDIS: Okay. 16:27:15

MS. FRIESEN: -- where Andy came and presented some slides on, you know, what CMP meant and how it worked and things like that. And he also had Judy Schultz go through the priority list. And some of the things that you'll see in AT & T's exhibits, they talked to the commission about that, the commission got the briefs, which I think you've already seen in relation to that discussion. 16:27:16 16:27:17 16:27:21 16:27:23 16:27:29 16:27:29 16:27:32 16:27:37 16:27:39

And judging that testimony and that evidence, the Colorado commission said that Qwest came up short, that they couldn't determine whether or not Qwest had met the five criterion and the best they could do was either remain silent, was one option; give Qwest a thumbs down 16:27:41 16:27:45 16:27:49 16:27:51 16:27:54 16:27:57

was another option, in other words, not pass them; or allow Qwest an opportunity to bring in more evidence. 16:28:01 16:28:05 16:28:08

Qwest chose the third option. And in choosing that third option, what they did is filed in Colorado what you have received on April 30th, 2002, which is just Qwest reverting back to discussion of the interoperability test and things like that, things that don't really go to fixing the outstanding exceptions or the issues that the CLECs have brought forward to the commission -- 16:28:09 16:28:13 16:28:15 16:28:17 16:28:23 16:28:26 16:28:28 16:28:31 16:28:31

COMMISSIONER LANDIS: Okay. 16:28:36

MS. FRIESEN: -- in Colorado. 16:28:38

COMMISSIONER LANDIS: Thank you. 16:28:39

MS. FRIESEN: That's where Colorado stands. I'm not sure that Nebraska isn't in the same boat. 16:28:40 16:28:41 16:28:44

I know that Iowa has expressed some serious concern about the CMP process as well and the lack of evidence to show that Qwest is actually complying with the FCC's requirements. 16:28:45 16:28:49 16:28:51 16:28:55

MR. POST: Frank, if I could -- Commissioner Landis, if I could -- 16:29:01 16:29:01

25 COMMISSIONER LANDIS: Sure. It's a 16:29:04

workshop. 16:29:05
MR. POST: Letty, you inferred -- 16:29:06
this is Chris Post from the staff. You inferred 16:29:07
that the completed document would be completed 16:29:10
sometime in June. If that was the case, I 16:29:14
imagine AT & T then would like a pattern of 16:29:17
compliance demonstrated by Qwest. How much 16:29:20
should or what should the commission expect as 16:29:23
far as the duration of the pattern of compliance? 16:29:27
MS. FRIESEN: That's a good 16:29:30
question. And I think that Qwest itself has 16:29:31
helped to solve some of that problem by reopening 16:29:34
some of its exceptions with respect to the CMP 16:29:38
exceptions. 16:29:41
If they asked -- they basically asked KPMG 16:29:42
to recap some of the adherence over time issues. 16:29:48
And I think with respect to those -- I have 16:29:51
no idea how long it will take KPMG to do that. 16:29:54
But I can't imagine it would be very long. If 16:29:57
KPMG starts soon, I would expect within two 16:29:59
months or three months. 16:30:02
COMMISSIONER LANDIS: Three months? 16:30:07

MS. FRIESEN: Bear in mind, AT & T is not asking Qwest to be perfect in its compliance or to be perfect in terms of getting 16:30:08 16:30:10 16:30:12

the entirety of that CMP document done in the redesign, you know, done with respect to all the redesign issues. We're only asking that the core document, the core provisions of redesign be done. Those are the ones that are identified on that priority list in our exhibit packet. All we're asking is that those get done and that Qwest demonstrate a pattern of adherence over time. 16:30:16 16:30:21 16:30:23 16:30:26 16:30:29 16:30:31 16:30:34 16:30:36 16:30:40

And so, Chris, I would think two or three months at the most. 16:30:40 16:30:43

MR. POST: Okay. Thank you. 16:30:44

COMMISSIONER LANDIS: Mr. Griffing, do you have any questions of Ms. Friesen before we go to very brief rebuttal by Andy? 16:30:46 16:30:49 16:30:50

Commissioner Boyle, any questions of her before we go back to -- Mr. Crain. 16:30:55 16:30:57

MR. CRAIN: Sure. I'm going to try to be very brief. But I won't be. The Colorado commission order, I'd like to explain that a 16:31:01 16:31:02 16:31:09

21	little bit. In Colorado we did have a workshop	16:31:33
22	and an in banc proceeding like this on change	16:31:39
23	management. It happened before the draft final	16:31:43
24	report came out. It happened before one or two	16:31:46
25	of the SATE observations -- or exceptions were	16:31:50

1	closed/unresolved.	16:31:54
2	Colorado asked us to make a filing on a	16:31:56
3	certain date, reporting on the results of the	16:31:58
4	change management redesign session and providing	16:32:01
5	further information on change management. What	16:32:05
6	Qwest did was provide its information on	16:32:09
7	everything except for interface testing and the	16:32:13
8	efficacy of documentation to build EDI	16:32:17
9	interfaces.	16:32:20
10	As a result of that and as a result of the	16:32:24
11	fact that there was a closed/unresolved exception	16:32:28
12	on SATE, the Colorado commission asked us to file	16:32:32
13	further information. And they did it in these	16:32:35
14	orders you see before you.	16:32:38
15	And essentially -- and this isn't clear from	16:32:42
16	the orders, but it was very clear from when	16:32:45
17	Chairman Gifford was telling me exactly what	16:32:48
18	needed to be in the document, it was very clear	16:32:52

what they were really looking at was for more information on SATE and more information on the documentation that we provide to build interfaces because we did not provide that very much in the first filing we made in Colorado. 16:32:32 16:32:35 16:32:37 16:32:41 16:32:43

MS. FRIESEN: I'm going to have to object to this. I will provide the transcript 16:32:46 16:32:46

from that hearing. That is not consistent with what Commissioner Gifford in Colorado thought -- thought should be included in the April 8th filing. 16:32:49 16:32:52 16:32:57 16:32:59

COMMISSIONER LANDIS: I think it's fair enough, Letty, since we're talking about it, go ahead and ship it down. We'll take it as a late-filed exhibit. Chris can read it. 16:32:59 16:33:00 16:33:03 16:33:05

MS. FRIESEN: Thank you. 16:33:08

MR. CRAIN: And I will readily admit, I made a mistake when I interpreted the Colorado commission's earlier order on what should be in the April 8th filing. I made a mistake and didn't include some things because it wasn't clear in my mind that those should be included. 16:33:09 16:33:10 16:33:13 16:33:16 16:33:19 16:33:21 16:33:25

Those now have been provided to the Colorado commission. And those were -- the same materials have been provided to this commission in our April 30th filing. 16:33:28 16:33:29 16:33:32 16:33:35

A couple issues, and I guess what it really comes down to -- well, let me go from the top. AT & T stated that other BOCs didn't do their change management the same way and didn't negotiate the change management changes during 16:33:40 16:33:44 16:33:49 16:33:54 16:33:57

the pendency of a 271 proceeding. That is absolutely not the case. This is exactly the way things were handled in the -- New York, and they were exactly the way things were handled in Texas. 16:33:59 16:34:01 16:34:03 16:34:06 16:34:07

There's timing difference on when the completion of that -- those procedures were done. But they were all done during the proceeding of testing, during the proceeding of 271 cases. 16:34:08 16:34:11 16:34:13 16:34:15

As to the implementation of the core provisions, we have provided and provided on pages 10 to 12, 13 -- 10 to 18 of our April 30th filing detailed information on when each core provision of change management was implemented; 16:34:24 16:34:28 16:34:33 16:34:44 16:34:46

and our performance and giving detailed figures of our performance rate since then, those processes have been implemented. And all of those figures range from anywhere between 97- and 100-percent compliance.

So we have demonstrated that we have implemented the core provisions of change management, and we have demonstrated that we've been able to perform under those core provisions.

AT & T mentioned several issues that have come up. And those issues are exactly what I

talked about at the start of this discussion, that change management will not resolve all issues, they will not create perfect performance by Qwest in all issues as well.

The issue of local service freeze is exactly that kind of issue. It has been handled on an expedited basis. We've been implementing new processes. And they go -- they're more extensive than just adding new phone numbers for people to call. We've been working out new processes with the CLECs. We've implemented a new process. We've been meeting with them to address our new

concerns. We haven't been able to resolve all of their concerns. But in terms of the change management process, that process is working. It's exactly the type of thing that should be happening. 16:36:09 16:36:13 16:36:23 16:36:33 16:36:37

And then, finally, in terms of SATE and the ability of CLECs to build the wire interfaces using our test environment, we provided evidence that 29 CLECs have effectively done that. We've provided evidence that AT & T itself has built two interfaces to our EDI interface, one for AT & T broadband and one for AT & T the old Bell operating company, long-distance company. AT & T 16:36:50 16:36:58 16:36:58 16:36:58 16:36:58 16:36:58 16:36:58 16:36:58 16:36:58 16:36:58

has developed two -- four releases for the old Bell operating company and three releases for the AT & T broadband. 16:36:51 16:36:58 16:37:01

AT & T has brought forth no evidence whatsoever of any issues they had with our testing environments, with our documentation, with our teams that we provide to help build -- help them build those interfaces. 16:37:03 16:37:05 16:37:08 16:37:10 16:37:19

COMMISSIONER LANDIS: But they're not limited to their own corporate experience 16:37:19 16:37:19

with Qwest for purposes of making comments in this workshop, are they? 16:37:22 16:37:24

MR. CRAIN: That's absolutely correct. And they haven't brought forth evidence of any single CLEC that has had difficulties or problems building to our EDI interfaces. 16:37:26 16:37:27 16:37:29 16:37:32

So bottom line is we have provided the evidence necessary on all the aspects of change management, all the factors that the FCC looks at. We have done a tremendous amount of work over the last year or so in meeting CLECs' needs on change management. We'll continue to do that. But right now our change management process meets the standards of the FCC. 16:37:37 16:37:40 16:37:44 16:37:47 16:37:50 16:37:55 16:37:57 16:38:01

COMMISSIONER LANDIS: Questions of 16:38:04

Mr. Crain? Commissioner Vap? 16:38:05

Commissioner -- Madam Chairman, questions? 16:38:07

COMMISSIONER LOWELL JOHNSON: No. 16:38:11

COMMISSIONER LANDIS: Chris, sure, if you or Mr. Griffing have any questions. 16:38:11 16:38:12

MR. POST: One question is, Mr. Crain, earlier we discussed during your initial go-around that Qwest and the CLECs have 16:38:15 16:38:19

established various levels of importance or classifications for certain changes in the varying notices that you sent out as far as if it's a 30 day, 45 day, whatever type notice. Are commissions ever noticed as well in addition to the CLECs when it hits a certain level? 16:38:24 16:38:27 16:38:30 16:38:32 16:38:37 16:38:40

For instance, change management, I know Qwest may or may not make a tariff or rate sheet filing or whatever. But is there a certain level that it would make some sense to send notice to a designated contact person at the commission when such a change was being contemplated? 16:38:43 16:38:45 16:38:49 16:38:51 16:38:54 16:38:57

MR. CRAIN: There is no -- there's no provision for a change reaching a certain level and then Qwest providing notifications to commissions. 16:39:00 16:39:03 16:39:06 16:39:10

I do know that there's at least one or two 16:39:12

commission staff members across our region who have signed up on the notification list. And this commission for -- I think those -- there's not a limitation on those notifications. So if there's a designated representative of this commission that we should be sending these to, 16:39:15 16:39:19 16:39:21 16:39:26 16:39:29 16:39:32

we're happy to do that. 16:39:35
MR. POST: So if we'd like to 16:39:37
inundate somebody like Dick Palazzolo will tons 16:39:38
of e-mails, maybe the commission would like to do 16:39:42
that. Thank you. 16:39:44
MR. CRAIN: Sure. 16:39:45
COMMISSIONER LANDIS: Dr. Griffing, 16:39:46
do you have any questions? 16:39:46
Mr. Crain? 16:39:47
Anything finally before we conclude the 16:39:49
workshop today? 16:39:50
MR. POST: Actually, just one 16:39:52
thing. I just want to make sure the record was 16:39:52
clear that as typical for the commission, we make 16:39:55
all the filings regarding change management and 16:39:57
the O and Es part of the record. We don't 16:40:00
necessarily specify an exhibit number, but all 16:40:03
the filings have been made and will be put into 16:40:06
the record. 16:40:08

COMMISSIONER LANDIS: Yes. And 16:40:10
then I think Ms. Friesen is going to provide the 16:40:11
transcript of that proceeding in Colorado. 16:40:13
MR. POST: Hopefully a subsection 16:40:15

of that transcript. 16:40:16

MS. VINJAMURI: Is Ms. Friesen 16:40:18
going to -- we had some difficulties with the 16:40:20
e-mail she sent out, if she could please provide 16:40:21
us one hard copy to make sure what she sent out 16:40:23
matches those that -- 16:40:27

MR. POST: Actually, I have an 16:40:28
extra copy of what Ms. Friesen filed today 16:40:29
regarding change management and O and Es. I'll 16:40:32
make sure you get it. 16:40:34

COMMISSIONER LANDIS: Okay. 16:40:35
Anything else? 16:40:35

Mary, anything from your standpoint before 16:40:36
we close the workshop? 16:40:37

MS. TRIBBY: No. Thank you for 16:40:41
allowing us to participate by phone. We 16:40:42
appreciate that. 16:40:43

MR. CRAIN: We do have one 16:40:45
follow-up. And it should not take very much time 16:40:46
at all. When certain changes were made to 16:40:49
OP-4 -- 16:40:53

MS. NOTARIANNI: The question was 16:40:55
asked earlier about the OP-4C changes. And it's 16:40:55

my understanding from checking back with one of our folks, that there were, in fact, some changes in February and March that had to do with those familiar with discussion at the ROC TAG meetings with intervals over the weekend and Saturday due dates. Those are reflected in the note section of both the February and March data. But the changes were made in those months and retroactive to December, is my understanding. 16:40:59 16:41:03 16:41:05 16:41:08 16:41:11 16:41:14 16:41:18 16:41:22 16:41:26

And then there's also apparently someone very minor modification that really isn't going to change the results. It's a negligible change. However, there is a change going in in -- that will show up in the June report but reflects May results. It will be the May results in -- that come out in June, I should say. And that, similarly, will be retroactive back to December. And that change also will be reflected in the notes. 16:41:28 16:41:31 16:41:33 16:41:39 16:41:43 16:41:47 16:41:49 16:41:52 16:41:55 16:41:57

COMMISSIONER LANDIS: Is that the information you wanted, Dr. Griffing? 16:42:00 16:42:00

DR. GRIFFING: That's right. 16:42:03

COMMISSIONER LANDIS: Okay. 16:42:05

Anything else, Lynn, on that point? 16:42:05

MS. NOTARIANNI: No. I think 16:42:07

that's it. 16:42:08

COMMISSIONER LANDIS: Dr. -- 16:42:10

commissioners? Yes. 16:42:10

MR. POST: I'm sorry. 16:42:11

COMMISSIONER LANDIS: Mr. Post, 16:42:11

sure. 16:42:12

MR. POST: Just the final thing, I 16:42:13

asked the question earlier of Mr. Crain and 16:42:14

Ms. Tribby, I guess I ask the same for change 16:42:16

management, what is Qwest expecting the 16:42:26

commission to do as a result of this? And to 16:42:26

that question, is the commission going to expect 16:42:26

proposed orders on change management? Or is this 16:42:27

something that you would have us wait until our 16:42:28

final order? 16:42:31

MR. CRAIN: And from Qwest's 16:42:34

perspective, if the commission finds and we think 16:42:35

there's plenty of evidence for the commission to 16:42:41

find that our change management process is 16:42:43

adequate at this point, then we would request 16:42:47

that the commission issue an order, their 16:42:51

finding. And we'd be happy to provide a draft 16:42:55

order. 16:42:57

If, however, the commission feels it needs to wait until the June hearing to have further discussion on this because there's a subject the commission wants to consider, that's an option that's available as well. 16:42:59 16:43:01 16:43:06 16:43:10 16:43:11

COMMISSIONER LANDIS: If I might jump in, Chris, unless any of my colleagues disagree with this, I think the commissioners would like proposed orders. Regardless of whether we decide to enter an order or use the language in a final order, if we can have proposed orders, that's going to make Mr. Post's job much easier. 16:43:13 16:43:14 16:43:16 16:43:18 16:43:21 16:43:24 16:43:28 16:43:30

So, Mary, any objection to giving us some proposed language on change management? 16:43:32 16:43:35

MS. TRIBBY: Mr. Landis, you cut out at the end. I'm assuming you're talking about the CMP process and not the closed observations of exceptions at this point on OSS? 16:43:42 16:43:43 16:43:45 16:43:49

COMMISSIONER LANDIS: Right. Exactly. If we could just have proposed language, and the commissioners will decide whether to enter a separate order or reserve on this until our final order. But in any event, we'd like to have the language on the property 16:43:53 16:43:54 16:43:56 16:43:58 16:44:01 16:44:04

that -- when we decide which way the commission wants to go, then it will make Chris' job easier. 16:44:07 16:44:09

MS. FRIESEN: This is Letty. The proposed order that AT & T would draft today is probably different than the proposed order that AT & T would draft in, say, June. 16:44:13 16:44:16 16:44:19 16:44:21

COMMISSIONER LANDIS: Well, draft what you can for today, Letty, and then update it if the need arises. Just based on what -- based on what you know and what we've heard, give us what you would -- your best shot today. 16:44:25 16:44:26 16:44:29 16:44:34 16:44:36

MS. FRIESEN: Today? Okay. 16:44:39

MR. POST: I guess, Commissioner, then typical practice would be that we would request those filed with the commission within ten days after the transcript has been completed. And I think typically it's around 5-plus days. So probably looking at 15 days from today's date roughly that they would be due the commission. 16:44:40 16:44:41 16:44:43 16:44:45 16:44:48 16:44:52 16:44:55

COMMISSIONER LANDIS: Chris, why don't you just coordinate that with Andy and Mary and Letty. And you work it out. Look at their schedules and the commission workload. But I think we want the language on the property. 16:44:58 16:44:58 16:45:02 16:45:05 16:45:07

MR. POST: Okay. 16:45:09

COMMISSIONER BOYLE: That's with the understanding there should be no expectation that we'll issue an order on this. 16:45:10 16:45:11 16:45:12

COMMISSIONER LANDIS: Right. It's just language that we will either do an order or we will use some of the language in a subsequent filing. 16:45:15 16:45:15 16:45:19 16:45:23

Anything else? 16:45:24

MR. POST: That's all from the staff. 16:45:26 16:45:27

COMMISSIONER LANDIS: Thank you, folks, for your efforts today. 16:45:27 16:45:28

(Concluded at 4:40 p.m.) 16:45:29

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Exhibit LN-OSS-57

Exhibit LN-OSS-57

Colorado Public Utilities Commission's Recommendation to the Federal Communication Commission June 13, 2002

Decision No. C02-718

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02M-260T

IN THE MATTER OF THE COLORADO PUBLIC UTILITIES COMMISSION'S RECOMMENDATION TO THE FEDERAL COMMUNICATIONS COMMISSION REGARDING QWEST CORPORATION'S PROVISION OF IN-REGION, INTER-LATA SERVICES IN COLORADO.

COMMISSION DECISION REGARDING OSS, SECTION 272, PUBLIC INTEREST, TRACK A, CHANGE MANAGEMENT PROCESS, AND DATA RECONCILIATION AND COMMISSION DECISION REGARDING THE COMMISSION'S RECOMMENDATION TO THE FEDERAL COMMUNICATIONS COMMISSION CONCERNING QWEST CORPORATION'S COMPLIANCE WITH SECTION 271

Mailed Date: June 26, 2002
Adopted Date: June 13, 2002

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I. INTRODUCTION

A. This decision addresses the remaining criteria pertaining to the investigation into Qwest Corporation's (Qwest)

compliance with 47 U.S.C. § 271. The remaining criteria are: the fitness of Qwest's operations support systems (OSS), including data reconciliation; pricing of Qwest's wholesale offerings;[1] Qwest's Change Management Process (CMP); the "public interest" test of § 271(d)(3)(C) 271, Qwest's compliance with § 272 and the "Track A" of § 271(c)(1)(A).[2]

B. This decision also completes the Commission's assembly of Colorado's § 271 record for the Federal Communications Commission (FCC). With this decision, in conjunction with earlier Staff Workshop Reports, hearing commissioner decisions and *en banc* Commission decisions in this docket, this Commission verifies under § 271(d)(2)(B) that Qwest complies with the requirements of § 271. The Commission recommends to the FCC that Qwest be allowed to enter the in-region, inter-LATA market in Colorado.

II. BACKGROUND

A. On April 29, 2002, Qwest filed its complete and final

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[1] The Commission set Qwest's wholesale prices in Docket No. 99A-577T. The Commission considers wholesale prices here for compliance with Commission Orders in 577T, and so that those prices, which were litigated in an adversarial Colorado Administrative Procedure Act proceeding, can be imported into this § 271 record.

[2] The Commission *en banc* considers the OSS, data reconciliation and CMP issues for the first time. The hearing commissioner already has made determinations about the public interest, § 272 and Track A. Unless noted otherwise here, the Commission endorses and relies upon the determinations from the Staff Report Volume VII and the hearing commissioner's resolution of impasse issues relating to the public interest, § 272 and Track A. See Docket No. 97I-198T, Decision Nos. R02-318-I, R02-516-I.

Statement of Generally Available Terms and Conditions (SGAT), including all exhibits. Qwest supplemented and amended this SGAT.[3] Qwest asserts the SGAT complies with § 271.

B. Qwest made numerous filings in support of its position that it complies with § 271. On November 11, 2001, Qwest filed Comments Demonstrating Satisfaction of the Requirements of Section 271.[4] On April 26, 2002, Qwest filed Comments Demonstrating Satisfaction with the FCC's Section 271 Change Management Evaluation Criteria.[5] On May 1, 2002, Qwest filed the Report on Data Reconciliation of Qwest's Performance Metrics, dated April 2002, prepared by Liberty Consulting Group (Liberty) for the Regional Oversight Committee (ROC) OSS test.[6] On May 29, 2002, Qwest filed the Regional Oversight Committee OSS Test Final Report, dated May 28, 2002. Qwest supplemented this filing on June 5, 2002. Qwest filed on May 9, 2002[7] its

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[3] *See* filings of May 24, and June 7 and 12, 2002. The Commission considered the April 29 SGAT, as amended and supplemented by the subsequent filings.

[4] Qwest supplemented these comments on February 21, April 9, April 26, May 15, and June 5, 2002.

[5] This filing, in turn, relied on reports about Qwest's Change Management Process, filed on February 15, as supplemented on February 21, and March 15, 2002. This filing also relied upon Qwest's Report Regarding Change Management Issues, filed February 8, 2002, and Qwest's Brief Regarding Change Management, filed April 8, 2002. *See also* Comments of Qwest Corporation filed May 15, 2002.

[6] Qwest supplemented this filing on June 5, 2002. State-specific reports on Liberty's data reconciliation activities, including those pertaining to Colorado data, are in this record.

[7] *See also* Comments of Qwest Corporation filed on May 15, 2002.

Analysis of Evaluation Criteria and Closed/Unresolved Observations and Exceptions in the ROC OSS Test to address the ROC OSS Test observations and exceptions which were closed other than satisfied.

C. Finally, Qwest submitted commercial experience data for the Commission's consideration. On May 21, 2002, Qwest filed Colorado Performance Data for May 2001 to April 2002 as Reported Under the ROC Performance Metrics.[8]

D. The other participants in this docket could comment on, and respond to, Qwest's filings. Several participants[9] filed written comments addressing the issues. Qwest replied to the participants' comments.

E. The Commission held two *en banc* workshops, one on May 7-9, 2002, and the other on June 10-12, 2002. At these workshops, the participants presented witnesses and oral argument concerning the ROC OSS test; the Change Management Process; the public interest; Qwest's compliance with § 272; Track A; Qwest's commercial performance in Colorado; and data reconciliation.

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[8] *See also* Comments of Qwest Corporation filed on May 15, 2002, and Qwest Supplemental Comments on Commercial Performance and Data Reconciliation filed on June 5, 2002.

[9] The Office of Consumer Counsel (OCC), Covad Communications Company (Covad), AT&T Communications of the Mountain States, Inc. (AT&T), and WorldCom, Inc. (WorldCom) filed written comments. In addition, the Commission received information provided by New Edge Network, Inc. d/b/a New Edge Networks; and Touch America, Inc.

F. KPMG Consulting (KPMG), Liberty Consulting, Hewlett-Packard Consulting (HPC), and Maxim Telecom Consulting Group (MTG)--the vendors who managed and conducted the ROC OSS test--made presentations to the Commission. Participants had the opportunity to question the vendors.

G. The participants' positions and arguments are set out in detail in their filings and in the transcripts of the Commission *en banc* workshops. They will not be repeated here.

III. PRICING ISSUES

A. Qwest's Motion to Amend SGAT in Compliance With Decision No. C02-636 and Request for Waiver of Response Time.

1. On June 7, 2002, Qwest filed a motion to amend its SGAT in compliance with Decision No. C02-636. In its motion, Qwest states that changes were made to conform Exhibit A to the SGAT and Appendix A to that exhibit to the June 6, 2002, Commission decision on rehearing, reargument, and reconsideration in Docket No. 99A-577T. Qwest also corrected a pagination error in Exhibit C to the SGAT. Qwest requested that response time to the motion be waived. Qwest filed an Errata on June 12, 2002, to add two explanatory footnotes. The Errata more specifically describes application of the local switching rates represented at 9.11.1 and 9.11.2 of the Exhibit A, as well as corrects the first port and additional port rates in

accordance with Commission Decision No. C02-636, in Docket No. 99A-577T.

2. **Decision**

a. The Commission finds the rates filed by Qwest in Exhibit A to the SGAT and Appendix A to that exhibit comply with the Commission decisions in Docket No. 99A-577T. These rates have been found TELRIC-compliant by the Commission. Thus, the rates in Exhibit A to the SGAT comply with § 271.

b. Response time to this motion is waived.

3. **Discussion**

a. In its motion, Qwest represents that these specific changes were made to Exhibit A to the SGAT and Appendix A to Exhibit A:

- lowered the prices for local switching, tandem switching, and shared transport;
- corrected the rate for DS1 capable feeder;
- modified the rates for unbundled DS0 capable and higher capacity loops, in accordance with the Commission's decision on deaveraging; and,
- corrected miscellaneous language.

Qwest also corrected a pagination error in Exhibit C, the Service Interval Tables. The pagination error prevented the beginning portion of Section 2.0 of the Service Interval Table from displaying. Correction of the pagination error makes Section 2.0 to be complete.

b. The Errata filed by Qwest includes the following changes:

- At §§ 8.1.1, 8.2.1, and 8.3.1, a new footnote 10 has been added to clarify that quote preparation fees will be credited to the final space construction charge for the collocation job.
- At §§ 9.2.3.3, 9.2.3.4, 9.2.4.3, 9.2.4.4, 9.2.5.3, and 9.2.5.4, the installation option "Project Coordinated Installation" was added to the title of the rate element, consistent with § 9.2.2.9.7.3 of the SGAT. AT&T has raised concern that this new title is confusing. In response, Qwest has added footnote 11, to provide further clarification.
- At § 9.11 entitled Local Switching, the description of the "Analog Line Side Port With Features, First and Additional" product has been expanding to more clearly explain application of the rate in accordance with 47 CFR 51.319. In addition, the rates for Analog Line Side Port with Features, first port (shown at § 9.11.1) and for additional ports (shown at § 9.11.2) have been corrected in accordance with the ruling in Commission Decision No. C02-636, in Docket No. 99A-577T.

c. A review of Exhibit A to the SGAT including footnotes to it and also a review of Appendix A, which defines the rate groups for pricing, indicate that these documents are in substantial compliance with what the Commission ordered. There are some minor, textual errors that might be corrected in the future, but there is nothing in Exhibit A that would be so egregious as to make it unusable or not applicable. There are rates listed for certain elements that the Commission has not yet had a chance to review or rule upon in this Exhibit A, Appendix A. These rates will be addressed in Phase Two of Docket 99A-577T. The Commission has indicated that there will be a scheduling conference soon for Phase Two wherein the Commission will identify all rates that continue to be at issue,

what new rates will be required, and additional studies to be performed. These interim rates will be allowed to operate until the Commission finishes Phase Two.

IV. PUBLIC INTEREST ISSUES

A. A reasonable evaluation of the public interest component of a § 271 application begins with the specification of an appropriate overall criterion. That criterion may have several components. A crucial characteristic of public interest analysis is the ability of the criteria to be subjected to verification or refutation through comparison with a pertinent and reliable evidentiary record pertinent to that criterion. The public interest "test" must indeed be a test insofar as an empirical question may be addressed by reference to reliable data.

B. The criterion itself and evidence should bear directly on the issue of public interest. Public interest definitions abound; therefore, the Colorado Public Utilities Commission used a test that is similar, if not identical to, the standard articulated by the FCC in several § 271 orders. The Commission criterion is consistent with Colorado statutes and case law, also.

C. The Commission adopted a public interest standard grounded in sound economic theory and practice. The standard is

whether consumers will experience a noticeable, detectable, verifiable increase in economic well-being as a direct result and attributable consequence of Qwest entry into the inter-LATA market. The increase in economic well-being is equivocal to net aggregated benefit of consumers of the services at issue. Benefits may accrue either from local exchange market conditions or from inter-LATA market conditions, or some combination of the two. Concisely, consumer welfare, as the term is used by the Commission, is a situation where the beneficial gain to some consumers exceeds losses, if any, experienced by other consumers, aggregated over all consumers.[10]

D. The Commission test itself is static in nature, but the underlying concept, market structure, and institutional setting combine to form a durable, reliable, robust, and dynamic public interest test. The general standard is whether markets are open. It is a simple matter to examine a snapshot of entry barriers and market structure, conduct, and performance. However, the conditions depicted at any point in time can change. Thus, it is important to devise a scheme whereby it is not necessary continuously to monitor the conditions within a

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[10] The test or criterion employed by the Commission is similar to the economic welfare concept based generally on the Pareto criterion of welfare improvement. However, since Pareto improvement requires a gain to one party without loss to another, the Hicks-Kaldor criteria are more practical. It is the latter criteria which most closely resembles the test used by the Commission.

market if the barriers to the market are eliminated and, crucially, if there are economic and institutional measures to maintain the absence of barriers.[11] The institutional component of the Commission public interest test is the Colorado Performance Assurance Plan (CPAP). According to our theory, if entry barriers can be eliminated or effectively minimized at a low level, then the conditions within the market will create net benefits to consumers.[12]

E. The Commission's public interest evaluation is consistent with recent FCC public interest analysis. The FCC has provided increasingly clear guidance on public interest evaluation process and method in its recent orders on this

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[11] A market for any good or service changes over time, creating the opportunity for new entry barriers to obtain. Further, there is an incentive for producers to erect entry barriers, or, in the vernacular of the day, to backslide. For markets such as the ones at issue in this application, some institutional oversight may be welfare-enhancing and either reduce the incentive to backslide or directly forbid surrender to temptation of the forbidden fruit of entry barrier erection. The Commission has an anti-backsliding provision as a component of its public interest test.

[12] The Commission's consumer benefit test obviates most traditional structure, conduct, and performance analysis. Internal market conditions become secondary to, and in some ways, are determined by entry conditions. However, the Commission, in an abundance of caution, applies some traditional analysis of internal market conditions as a check of its conclusion regarding entry barrier status.

topic.[13] The Commission's public interest criteria of "improvement or maximization of consumer welfare" is the same standard applied by the Commission in recent merger applications pursuant to a statutory requirement which requires evaluation of "the public interest" effects of utility merger proposals. The merger standard applied in those instances is the same standard the Commission applied in this docket. The FCC's circumscription of a public interest test is clearly similar, if not identical, to the Commission's consideration a consumer welfare standard.

F. The Commission's public interest criterion is a composite of three essential questions, all of which serve to increase net consumer benefit. The component questions are:

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[13] The *Georgia/Louisiana order* (*GALA II*) is instructive on the current scope of the FCC's public interest test. In *GALA* the FCC discussed public interest in some detail. Generally, the FCC construes public interest ". . . [a]s 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." The public interest, as denoted in *GALA II*, is expressed in two parts: One, ". . . [t]hat barriers to competitive entry in the local exchange markets have been removed and the local exchange markets . . . are open to competition . . . " And, " . . . [t]hat BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition . . . " Finally, the existence of a PAP for an applicant is construed as strong evidence that markets will remain open.

Likewise, the FCC stipulated certain conditions not relevant to its public interest evaluation. In *GALA II*, the FCC excluded some factors from consideration: CLEC (or BOC) market share; a weak or weakening economy; and CLEC financial condition. Citing a federal court decision regarding market share relevance to public interest evaluation, the FCC public interest test seems to be on firm ground. By logical extension, the Commission's standard, therefore, is equally robust.

1) Is the local market open? 2) Will the local market remain open? 3) Do any unusual circumstances, not contained in the first two questions, argue against Qwest entry into the interLATA market? In evaluation of public interest implications of § 271 applications, the FCC has indicated "[n]o one factor dispositive." The Commission adopts a similar approach. The evaluation of net benefits intrinsically is a balance of many factors, some which increase benefit, some which reduce it. It is not possible to eliminate tradeoffs among economic agents. Thus, the Commission properly focuses on the *net* gain to society as a result of inter-LATA market entry.

G. The Commission believes that net consumer benefits inure from the absence of entry barriers. Consequently, as required by statute and sound regulatory practice, the Commission has evaluated, as depicted in more detail, *infra*, the state of entry barriers in Colorado local exchange markets. The Commission believes that if entry barriers are absent or insubstantial, then consumer benefit necessarily follows since the absence of entry barriers causes the market and market participants to behave in a manner consistent with competitive outcomes. Under this view, BOC entry will benefit consumers directly and the competitive process generally; therefore, entry

will produce lower prices,[14] an occurrence that is in the public interest. Compliance with the checklist is a proxy for the absence of entry barriers.

H. A more detailed analysis of specific checklist points is provided below. Checklist and public interest evaluation becomes a matter of competent supporting evidence. While the evidence is less than perfect, the resulting analytic conclusions less than certain, error margins are sufficient for the Commission to state that entry barriers are absent. Even with a critical and pessimistic view of the evidence, it remains sufficient to meet Commission and FCC standards. Stated differently, interpretation of such data is never simple, but there is sufficient margin for error, especially in light of recent FCC orders.

(1) Residential Market Competition: Critics of entry posit a need for a market share analysis of the residential market. The FCC does not impose such a market share test. The criterion is not whether competition is present but whether the market is open. On this basis, this application can move forward. The FCC has articulated other reasons to de-

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[14] The Commission notes that Qwest already has advertised an inter-LATA toll plan with rates which compare favorably with some current rates. While the estimates of benefit associated with those prices are questionable, the introduction of new pricing points by a new provider likely will allow consumers to benefit through lower toll expenditures. To the extent that lower toll rates can be included in local exchange packages, then additional benefits accrue to those consumers.

emphasize market shares, especially in residential markets. These reasons include pricing of retail service relative to cost, relative lack of profitability in residential markets, and business strategies of Competitive Local Exchange Carriers (CLECs), which emphasize higher-profit business service.

I. The final discrete element of the public interest criterion is whether any unusual circumstances exist which are contrary to consumer welfare improvement. A more detailed analysis of this issue is provided below.[15] However, the Commission believes, the CPAP should be able to address and penalize, as necessary, improper conduct by Qwest. The financial incentives of the CPAP should mitigate some or all of the incentive, if any, for Qwest to misbehave. Indeed, the FCC,

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[15] Some of the issues can be summarized quickly. One issue is structural separation on a vertical basis, that is between retail and wholesale operation. Stated differently, a vertically integrated producer should be *dis*-integrated. Some parties have advocated vertical separation or, more generally, structural separation of the BOC generally, and Qwest in particular. This means, for example, that Qwest's wholesale products line UNE's and switched access would be offered by a separate company from the retail services consumed by end users. Such a proposal has some interest on other levels, but it is clear that the FCC never has required such separation for § 271 approval. Further, structural separation appears to defeat one basic purpose of the Act, that of improved BOC efficiencies. See Decision No. R02-318I for further discussion of structural separation.

A second issue is CLEC failures: The issue is raised as a evidence of anticompetitive conduct by Qwest. The FCC states that CLEC failure, in isolation, is not necessarily the product of improper conduct by the BOC. The FCC's rationale is that other factors, in combination or isolation, can explain CLEC failures. Such factors listed by the FCC include a weak economy and poor CLEC plans. These factors could apply to Colorado and Qwest, too. Thus, the FCC is not persuaded to delay or deny a § 271 application on the basis of CLEC failures. If the Commission acts in the same manner, it appears to be on firm ground with respect to previous FCC approvals.

through recent § 271 decisions, has stressed the importance of "CPAP"-type plans. The Commission's approach here is consistent with the FCC approach.

J. In summary, The FCC has simplified the public interest criterion. The evidence in the Colorado record is consistent with the requirements recently articulated in FCC § 271 approval orders, most recently the *GALA II* order. A favorable Commission recommendation to the FCC regarding public interest comfortably is within the parameters set by the FCC and the Commission record in this case. To the extent that any uncertainty exists regarding the propriety of this conclusion, the Commission's CPAP serves as a backstop to assure proper conduct by Qwest.

K. The essential notion of the public interest test is whether the local exchange markets are irretrievably open. This Commission, under the heading of public interest, has used a consumer welfare standard. The standard the Commission recommends to the FCC is whether there are a reasonable expectation and competent evidence to demonstrate that consumers will benefit from entry into the local market and into the inter-LATA markets. The notion behind the public interest test under the FCC's guidelines, the Act, and the Commission test is not necessarily the traditional industrial organization or regulatory analysis. That analysis requires vigorous competition in a traditional sense, specifically, a diminution

CONTINUATION

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of incumbent market share, a large number of competitors with significant market share, and prices which approximate cost, and so on. Instead, the Commission's test is built upon the notion that, absent barriers to entry, the market will function as if it is competitive. Neither the Act nor the FCC has required more. In *GALA II*, the FCC has articulated a two-prong standard: One, an open local exchange market and the absence of entry barriers; second, entry will benefit consumers. In addition, although not required by the Act, the FCC looks to the existence of a performance assurance plan such as the CPAP.[16] The Commission verifies that these conditions exist in Colorado.

COMMENTS

A. New Edge Network, Inc., Comments on the Provisioning of ISDN Digital Subscriber Line (IDSL) over Integrated Digital Loop Carrier (IDLC) or Integrated Pair Gain (IPG)

1. On April 11, 2002, New Edge Network, Inc. (New Edge), sent a letter to Chairman Gifford claiming that Qwest's retail sales group is offering ISDN digital subscriber line, or IDSL, service over loops with integrated pair gain or integrated digital loop carrier. New Edge states that Qwest previously had

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[16] If there is slight imperfection or less than certain evidence, the FCC apparently places significant weight on the state PAP. The FCC's overall judgment as to whether consumer welfare will be served, that the markets are open and will remain open on a going-forward basis relies increasingly on the a PAP. The FCC envisions a PAP as, first, a useful, if not necessary, backstop in the current timeframe, and second, as a dynamic measure to assure future compliance. As such, it serves a multitude of public interest purposes.

advised CLECs that IDSL was not available over loops with IPG and that those orders would not be processed if submitted. As a result, New Edge has not placed orders with Qwest when the raw loop data tool, the preorder loop qualification tool, shows that IPG was present. New Edge claims this is a clear case of discrimination.

2. **Decision**

a. We require Qwest to place the language currently contained in SGAT § 9.2.2.1.2, analog unbundled loops, into SGAT § 9.2.2.3.2, digital capable loops. In addition, we require Qwest to amend the appropriate section of its PCAT by including attachment JML-8 to 5 Qwest 37, which is Qwest's engineering decision tree for determining the best methodology for provisioning unbundled loops. When that update is done, Qwest must send the appropriate change management notification to the CLECs.

3. **Discussion**

a. New Edge asserts in its April 11, 2002, letter that Qwest has consistently advised New Edge that IDSL could not be provisioned on loops where IPG was present. If Qwest's pre-qualification tool reflected IPG, New Edge chose not to enter an order that subsequently would be rejected by Qwest. New Edge states that it has cancelled more than 100 customer orders in Colorado based on this representation from Qwest.

b. New Edge maintains that the entire discussion in the Colorado § 271 workshops regarding loops with IPG involved analog voice loops. There was no discussion about unbundling xDSL capable loops where IPG was present. New Edge claims that Qwest admitted that it also does not recall digital loops coming up in the discussions of IPG.

c. In the Change Management Process (CMP), Qwest was questioned regarding the processes in place to ensure that its retail group would not have access to products or services that the CLECs do not. According to New Edge, Qwest claimed that this is not an issue and that this sort of discrimination could not, and would not, happen. New Edge demurs, asserting that this is a clear case of discrimination and that these actions by Qwest fly in the face of the cooperative intent behind the workshops and the Change Management Process. Qwest, New Edge claims, has violated the provision in the Act that orders nondiscriminatory access to UNEs. In addition, New Edge claims Qwest has misrepresented itself in change management and the 271 hearings.

d. Qwest submitted a response to New Edge's claims in Robert Hubbard's affidavit attached to Qwest's Change Management comments filed on April 26, 2002, and also in a letter to Chairman Gifford dated May 28, 2002. Mr. Hubbard's affidavit states that the provisioning of ISDN where IDLC is

present requires the use of an Integrated Network Access (INA) di-group solution. The Engineering decision tree for the unbundling of these loops was presented as an exhibit and modified in the Colorado workshops as 5 Qwest 37.

e. Mr. Hubbard recounts meetings that Qwest held with Covad Communications beginning in February of 2000 about the INA solution and the provisioning of held orders.

f. Qwest states that it began provisioning ISDN loops for CLECs where IPG is present in early 1999. Qwest has continuously provisioned such loops for CLECs through the present time. Based on Qwest's records, in March 2002, there were over 3200 ISDN or xDSL-I capable loops in service in Colorado. Of these loops, 716 were served using the INA solution. These 716 loops are provisioned to six CLECs, including Covad and New Edge. As of March 2002, Qwest states that there were only 22 IDSL loops in service for Qwest's retail customers in Colorado. This total of 22 lines includes those with and without the INA technology.

g. Qwest emphasizes that the § 271 workshop discussions included the difficulties associated with unbundling a loop that is served with IDLC, engineering solutions for unbundling, installation intervals, and Qwest's commitment to look for ways to provisions these loops. Qwest, in Mr. Hubbard's affidavit, then states that although much of the

discussion related to general IDLC issues, whenever a specific loop type was discussed, it was the analog loop. However, the IDLC unbundling solutions presented during the workshops apply to all loop types.

h. Mr. Hubbard asserts that, during the April 4, 2002, CMP redesign meeting, Ms. Jean Liston committed to add information to the unbundled loop PCAT and the Loop Qualification CLEC job aide. Mr. Hubbard states that this activity is already done and is posted on the wholesale web site. Mr. Hubbard lists the technical publications that are consistent with the SGAT. The only exception is technical publication 77391, UNE Switching, issue E. This technical publication currently is being updated to incorporate suggestions offered by AT&T on access to the Unbundled Switch.

i. In the May 28, 2002, letter, Qwest reiterates much of what Mr. Hubbard professed in his affidavit. In addition, Qwest states it has provisioned at least 12 ISDN loops with IPG for New Edge in Colorado beginning in October 2000 and continuing into January 2002. Qwest also explains that in a compliance filing, dated November 30, 2001, Qwest demonstrated its IDLC unbundling performance improvements and the Commission closed the issue. Qwest expressed regret that New Edge was apparently not aware of the technical solutions that Qwest has employed to provision ISDN loops over IPG for

CLECs. However, Qwest asserts that no discrimination has occurred.

j. The Commission has reviewed the Workshop 5 transcripts about unbundled loops. During those discussions, it was never stated that the 11-step engineering decision tree or the INA solution was applicable to digital capable loops. The discussions involved alternative approaches to unbundling analog loops when IDLC was present. Changes to the SGAT that resulted from these discussions were made to § 9.2.2.2.1 pertaining to analog loops. No changes were made to § 9.2.2.3.2 regarding digital capable loops. The language added to § 9.2.2.2.1 is as follows:

> If Qwest uses integrated digital loop carrier (IDLC) systems to provide the local loop, Qwest will first attempt, to the extent possible, to make alternate arrangements such as line and station transfers (LST) to permit Qwest to obtain a continuous copper unbundled loop. If an LST is not available, Qwest may also seek alternatives such as integrated network access, INA, pair pinning, or placement of a central office terminal to permit CLECs to obtain an unbundled loop. If no such facilities are available, Qwest will make every feasible effort to unbundle the IDLC in order to provide the unbundled loop for CLEC.

k. Qwest has asserted that this process of analyzing alternative solutions for loop unbundling is the same process for analog and digital loops. Therefore, this language should be added to the digital capable loop section, § 9.2.2.3.2, too.

l. The CMP redesign group also discussed this issue. In the CMP redesign meeting, Qwest represented that it was in the process of making changes to the PCAT more clearly to reflect this unbundling process for IDLC. Qwest offered that it would notify CLECs once this task was done. On April 10, 2002, Qwest sent out the CMP notice with its changes to the PCAT and the CLEC Job Aide.

m. This notification was titled "Geographic Deaveraging for Loop Products." Qwest's changes for this unbundling issue were hidden amongst many other pages of changes in four different PCAT documents. The only change that was made regarding this issue was the addition of a table in the CLEC job aide that lists Pair Gain devices that are compatible with ISDN and xDSL-I loops. Qwest failed to mention the 11-step process or the INA solution.

n. Therefore, we order Qwest to make another update to the appropriate section of its PCAT to add the engineering decision tree found as attachment JML-8 to workshop exhibit 5 Qwest 37, with an explanation that this is the process Qwest uses for the provisioning of both analog and digital loops. This update should go through the normal CMP notification process at the appropriate level.

B. **Mile High Telecom Partners, LLP, Comments on Whether Qwest Has Complied with the Requirements of Section 271(C) of the Telecommunications Act of 1996**

1. On May 16, 2002, Mile High Telecom Partners, LLP (Mile High), filed comments in Docket No. 02M-260T. Mile High states that it has no standing to intervene and no desire to otherwise actively participate at hearing. Mile High wants only to submits its comments to the Commission in this proceeding.

2. **Decision**

a. Because this is a pending proceeding before an Administrative Law Judge at this Commission, and the potential exists that the full Commission will have to rule on exceptions, we decline to discuss or analyze the merits of this complaint.

3. **Discussion**

a. Mile High states that it filed a Verified Complaint for Declaratory Judgment and Injunctive Relief against Qwest on May 13, 2002. The complaint, Docket No. 02F-275T, alleges that Qwest has participated in anticompetitive practices intended and designed to block competition in the local exchange market. Mile High states that Qwest has provided wholesale bills replete with errors, improperly solicited Mile High's customers in violation of the Commission's confidentiality rules, and demanded that Mile High pay unreasonable deposits as

a condition to Qwest's continued provision of Mile High's new local service requests.

b. Based on these comments, we do not believe that there is a need to delay our decision on whether to recommend approval of Qwest's application for inter-LATA certification with the FCC. The FCC stated in the recent *GALA II* order that it refused to address issues in a § 271 proceeding that relate to open issues before it in another proceeding. We take the same position here.

C. Unfiled Agreements Between Qwest and Certain CLECs and Their Effect on the Public Interest Evaluation

1. AT&T first brought the issue of unfiled agreements to the Colorado § 271 record during the Commission's *en banc* workshop on Public Interest held May 7-9, 2002. During this workshop, AT&T presented oral argument on this issue and offered five of these agreements as exhibits to that workshop. AT&T stated that these agreements represent Qwest's "broad, intentional plan to discriminate between carriers, giving preferential treatment to some CLECs to the detriment of others." In its complaint filed with the Minnesota Commission, the Minnesota Department of Commerce (DOC) alleged that by making these terms and conditions contained in these agreements available only to the party CLEC, Qwest has violated §§ 251(b) and 252(c) of the Act. Further, the DOC alleged that Qwest's

violation of these statutory provisions were knowing and intentional.

2. **Decision**

a. Neither AT&T nor any other CLEC made a connection between these agreements and the consumer welfare standard contained within the public interest standard. Even if that argument had been made, there is no remedy in the § 271 process. This issue will continue to be examined by Colorado Commission Staff in a separate process, but there is no reason to delay our decision on whether to recommend approval of Qwest's application for inter-LATA certification with the FCC.[17]

3. **Discussion**

a. During the *en banc* Commission workshop, AT&T outlined its major concerns with the unfiled agreements AT&T presented 5 agreements as exhibits. The first major concern is that the agreements, specifically Exhibit 2 with Eschelon, contain provisions that represent off-tariff, off-interconnection agreement discounts that are not available to any other carrier. In addition, AT&T asserts that the most disturbing part of the agreement with Eschelon is the statement that Eschelon "agrees not to oppose Qwest's effort regarding § 271 approval or to file complaints before any regulatory body

[17] We take up the issue of the unfilled agreements impact on the ROC OSS test, *infra*.

concerning issues arising out of the parties' interconnection agreements." AT&T states that this takes a major critic of Qwest's § 271 application out of play in all 14 states.

b. AT&T's opinion is that this Commission should refuse to recommend § 271 approval until such time as further proceedings can take place to rectify the situation.

c. On May 13, 2002, AT&T filed a Motion to Reopen Proceedings on this unfiled agreement issue. AT&T states that this Commission should reopen the record in these § 271 proceedings to allow admission of additional evidence relating to certain unfiled agreements between Qwest and some new entrants. AT&T states that the agreements that were filed in the Minnesota complaint are not on record here in Colorado, but they should be considered in these proceedings. AT&T asks this Commission to reopen the § 271 proceeding so that the Commission may take further evidence and decide whether and to what extent these agreements may have hindered or otherwise affected the Commission's decision-making on various checklist items and the public interest determination.

d. On May 16, 2002, Eschelon Telecom of Colorado, Inc. (Eschelon), filed comments in the form of a letter addressed to Mr. Bruce Smith, Director of the Commission. Eschelon states that it agrees with AT&T's assessment that the agreements should have been filed by Qwest with the various

state commissions. Eschelon states that the Commission may want to reopen proceedings to consider these matters.

e. Qwest filed its opposition to this AT&T motion on May 28, 2002. Qwest's response asserts that AT&T's argument regarding these agreements, Qwest's response to that argument and five of the agreements at issue are already in the Colorado record from the Public Interest *en banc* workshop held May 7 through 9, 2002. Qwest also states that it has filed a Petition for Declaratory Ruling before the FCC, which the FCC has accepted for review and comment. The Petition seeks clarification on the applicability of the 90-day pre-approval process of § 252(a) the Act. Once definitive guidance is given by the FCC, Qwest commits to applying that threshold standard to all its agreements.

f. In the meantime, Qwest has committed voluntarily to provide copies of all contracts, agreements, and letters of understanding with competitive local exchange carriers that create forward-looking obligations to meet the requirements of § 252(a). Qwest has committed to work with state commissions and their staffs to solicit guidance on the treatment of agreements that may be in a "gray" area of this standard. Finally, Qwest reports that it has begun forming a committee of senior managers for various parts of its wholesale business to review all agreements involving Qwest's in-region

wholesale activities and ensure that Qwest complies with its current commitments and any ruling from the FCC.

g. The Commission denied AT&T's Motion to Reopen Proceedings with Decision No. C02-649 adopted May 29, 2002. In this denial, the Commission stated:

> AT&T has had ample opportunity to present these facts into our § 271 record, and in fact has entered five of the agreements at issue as well as approximately a day of oral argument by AT&T attorney Mr. Gary Witt and rebuttal oral argument by Qwest attorney Mr. Todd Lundy. In addition, Commission Staff and its counsel have been conducting their own informal investigation of similar agreements executed in Colorado. This is an ongoing investigation that will run its own course separate and apart from the § 271 proceedings.
>
> The merits of the agreements and arguments already in the record will be discussed and a decision will be reached on their treatment during the Commission's final deliberations meeting in the 02M-260T docket.

h. This Commission must strike a balance in this proceeding between Qwest's interests and the competitive benefits to the Colorado consumers from Qwest's entry into the long distance market. There might be an explanation for these agreements, and there might not. There might be a violation of law with these agreements, and there might not. We do not discount that this could be a serious issue, but this decision is better made in a proceeding separate from this § 271 proceeding. The only remedy ever offered for this proceeding was delay, and we believe delay will only harm the consumers of Colorado. Further, the legal tie-in between the alleged unfiled

agreements and § 271 is tenuous, at best. Absent a remedy in the § 271 process -- and we have been given none -- we find no profit in delay.

i. As to AT&T's concern that Eschelon was not allowed to participate in the Colorado 271 proceedings and this might have some how harmed our record, we find that Eschelon entered into that arrangement as a business decision that it thought would benefit Eschelon. While it has not participated in the § 271 workshops or hearings at the commission, Eschelon has fully and candidly participated in the CMP redesign process. Eschelon has provided input in that process that has resulted in a better CMP product. The § 271 workshops were long and arduous proceedings with topics dissected to a minute level. It is difficult for this Commission to believe that those discussions, compromises, and impasse decisions would have been any different with Eschelon's participation. A number of CLECs chose not to participate in this process for a variety of reasons. That certain voices came to the fore in this process – AT&T's and WorldCom's, for instance – is an unfortunate consequence of the resource intensive and costly nature of this § 271 proceeding. That this Commission lost smaller, niche CLEC voices, like Eschelon's through the process is unfortunate, but that is the design of § 271.

D. Changeability of the Colorado Performance Assurance Plan

1. The Office of Consumer Counsel's (OCC) Comments on Public Interest, filed May 3, 2002, stated that the CPAP provisions are rigorous in all respects, except the unambiguous ability of the Commission to make changes to the Plan.

2. **Decision**

a. A series of extensive meetings and compromises resulted in the approved CPAP. We will not modify the CPAP Changeability sections.

3. **Discussion**

a. The OCC pats the Commission on the head for devising a CPAP to guard against Qwest's incentive to backslide. The OCC faults one aspect of the CPAP, however; namely, the Commission's unambiguous ability to make changes to the CPAP, particularly at the three-year review. The OCC continues to believe the CPAP should have explicitly granted the Commission broad authority to make changes to the Plan, regardless of Qwest's acquiescence to such modifications. The OCC directs the Commission to both state and federal law as sources for authority unilaterally to modify the CPAP.

b. Qwest did not separately respond to the OCC's concern in this docket. However, in the CPAP proceeding,

Docket No. 01I-041T, Qwest repeatedly referenced the CPAP as "voluntary" and held fast to its belief that the Commission did not have the authority unilaterally to make changes. In its Response to Decision on Motions for Modification, filed November 30, 2001, Qwest asserts the FCC has never held that a PAP should allow changes to be made to the basic architecture of the plans by issuing a blank check to the state commissions. Qwest asked the Commission to remand this and three other issues to Professor Phil Weiser for re-negotiation.

c. In the Commission decision on the remand issues, Decision No. C02-339, we decided to approve Professor Weiser's recommendation on changeability. This included off-the-table items for the six-month reviews, the 10 percent financial collar, and the ability for judicial review of Commission ordered changes. While this compromise might not be perfect, it comes after many hours of work, give and take, and we will not make changes at this point.

E. Residential Competition in the Colorado Local Exchange Market

1. The OCC also raises its concern with the level of competition in the residential local telephone market. The OCC states that the level of competition should be relevant to the public interest analysis made by this Commission. CLECs' share

of the local residential and small business market is only 5.4 percent according to the FCC's June 30, 2001, report on competition.

2. **Decision**

a. The FCC has declined to include a market share test for § 271 approval. As the *Bell Atlantic New York Order* states:

> Moreover, pursuant to section 271(c)(2)(B), the Act provides for long distance entry even where there is no facilities-based competition satisfying section 271(c)(1)(A). This underscores Congress' desire to condition approval solely on whether the applicant has opened the door for local entry through full checklist compliance, not on whether competing LECs actually take advantage of the opportunity to enter the market.

b. Needless to say, we agree with the FCC.

F. Price Squeeze and Caps on Retail Prices

1. In its original public interest brief filed on August 22, 2001, AT&T argued that a relevant part of the public interest standard is whether, under Unbundled Network Element (UNE) rates, competitive entry is viable. According to AT&T, the fact that local entry is unprofitable at prevailing UNE rates is, on its face, precisely the sort of "relevant factor" that "would frustrate the congressional intent that markets be open" before inter-LATA entry is approved, *citing*, *Bell Atlantic New York 271 Order*, ¶ 423.

2. **Decision**

a. We affirm the hearing commissioner's Decision, R02-318-I. To hold up the § 271 approval because of a distorted retail rate structure would be inequitable to Qwest and delay competition's benefits to Colorado consumers. We also discussed the price squeeze issue in Docket No. 99A-577T and reaffirm our Decision there.

3. **Discussion**

a. AT&T asserts that a relevant factor of the public interest analysis is whether, under prevailing UNE rates, competitive entry is economically viable. This remains true whether or not a state commission has made a finding that UNE rates comply with TELRIC because the FCC has made it clear that it is prepared to find that a wide range of rates can satisfy TELRIC. AT&T provided an analysis that it alleges to demonstrate a barrier to competitive entry. In this analysis, AT&T compares UNE-P prices with the 1FR retail price concluding that UNE-P pricing stands as an insurmountable barrier to such entry. (It shows the monthly recurring UNE-P price to be $29.52 with features and the 1FR prices to be $14.92.) Moreover, AT&T states, the FCC has made it clear that one important aspect of any public interest analysis is the question of whether and to what extent all statutory paths to competition are open. In this case, according to AT&T, the record demonstrates that the

UNE path to residential competition is blocked as a result of the pricing disparity.

b. AT&T concludes by stating the record in this proceeding demonstrates unequivocally that even a perfectly efficient CLEC could not profitably compete to provide local residential service in Colorado. This analysis confirms not only that unduly high UNE rates are helping keep CLEC customer-volumes low, but that the local residential market will remain closed to competition at least until such time as those rates are substantially reduced.

c. Qwest responded to AT&T price squeeze argument on April 26, 2002. In this response, Qwest cites to the FCC's recent *Verizon Vermont Order*, released on April 17, 2002, and to the hearing commissioner's Decision, R02-318-I, on Staff Report Volume VII. Qwest states the FCC has affirmed that a reasonable UNE price squeeze argument must account for a number of factors ignored by AT&T's UNE price squeeze claim. An argument must include the existence of other methods of market entry and the possibility that states might have contributed to an alleged price squeeze by capping retail rates at an extremely low level.

d. Qwest asks the Commission to affirm the hearing commissioner's decision that Qwest should not be held

accountable, nor should its application to the FCC be held up, for the low retail price cap in Colorado.

e. In the *Verizon Vermont Order*, the FCC states:

> We conclude that AT&T and WorldCom have not established the existence of a price squeeze because they have not shown that the "UNE pricing at issue dooms competitors to failure." ¶ 66.

f. We agree with this statement and the findings of the hearing commissioner. We have dealt with the price squeeze argument both in Volume VII and also in Docket No. 99A-577T.

G. AT&T's Claim that Qwest Violated Its Interconnection Agreement (ICA) and Failed to Provide Adequate Systems Testing

1. On March 6, 2002, AT&T filed an Offer of Supplemental Authority Regarding Public Interest. In this filing, AT&T claims that Qwest violated its interconnection by failing to provide adequate systems testing.

2. **Decision**

a. We affirm the hearing commissioner's Decision, R02-318-I, in which he found that, as to this testing dispute AT&T has failed to demonstrate any pattern of anticompetitive behavior in Colorado that is foreseeable to take place in the future or that implicates welfare enhancement.

This dispute does not rise to the level that would require this Commission to find that Qwest's § 271 application is contrary to public interest.

3. **Discussion**

a. In AT&T's offer of supplemental authority, it asserts that throughout the § 271 proceedings AT&T has presented a great deal of information concerning Qwest's anticompetitive behavior. AT&T has demonstrated that Qwest has engaged in a variety of strategies, and used numerous ploys, to frustrate its competitors. The latest of these violations is a failure to provide adequate systems testing in accordance with the terms and conditions of its ICA. AT&T filed a complaint on this issue with the Minnesota Commission.

b. The Minnesota Administrative Law Judge found, on that issue, that Qwest failed to act in good faith and committed knowing, intentional, and material violations of its obligations to act in good faith under the ICA and under § 251(c)(1) of the Act. The recommended decision also states that Qwest's violations were continuous and ongoing and are indicative of a continuing pattern of conduct.

c. AT&T states that these findings not only demonstrate an ongoing pattern of anticompetitive behavior, they also show a willingness and ability on Qwest's part to prevaricate at the highest levels of the company, and thereby to

subvert the ability of a regulatory body to determine the true facts at hand.

d. AT&T asks this Commission to enter a finding that a grant of Qwest's § 271 application is not in the public interest and to require additional and appropriate safeguards to prevent this anticompetitive behavior from occurring in the future.

e. Qwest responded to this offer of supplemental authority on April 9, 2002. In its response, Qwest states the information AT&T supplied to this Commission from Minnesota was only an interim recommended decision by an ALJ and not a final commission decision. In addition, Qwest represents that the hearing commissioner in Colorado has already ruled on this issue in his decision on Staff's Volume VII report, Decision No. 02R-318-I. The hearing commissioner specifically cited AT&T's offer of supplemental authority and the Minnesota ALJ's order and declared that they, as well as the broader Minnesota systems testing dispute, failed to demonstrate a pattern of anticompetitive behavior in Colorado. Indeed, the hearing commissioner went on to say that AT&T's efforts to drag in other states' disputes merely "highlights the heightened expectations that parties have in a public interest inquiry to sling as much as they can on the wall to see what will stick." *See* Decision No. R02-318-I at p. 44.

f. Qwest continues, saying that on April 1, 2002, the Staff of the Minnesota Commission rejected the ALJ's findings and recommended a Commission ruling that Qwest did not act in bad faith and that a penalty should not be considered.

g. In the Multistate proceeding, Qwest represents, the facilitator found that the systems testing AT&T had proposed in Minnesota was unnecessary and refused to require Qwest to include SGAT language requiring such testing in all of Qwest's states. The facilitator rejected AT&T's argument when it tried to raise it in the public interest inquiry. The facilitator found that the Minnesota dispute: (1) did "not provide substantial evidence of a predictive, patterned refusal or inability of Qwest to comply with its wholesale service obligations" and (2) did not constitute "the kind of unique circumstances that the FCC believes it takes to support a finding that Qwest's entry into the in-region, inter-LATA market would contravene the public interest."

h. We agree with the hearing commissioner's decision on this issue, as well as the Multistate facilitator's recommendation. AT&T has not demonstrated that this issue from another state's proceeding is applicable to the public interest in Colorado. Should a similar instance arise in the future in Colorado, it will be adequately addressed by either the CPAP or by a traditional complaint proceeding. The § 271 process and

more specifically, the public interest analysis, is not a catch-all inquiry.

i. As the FCC stated in the *SWBT Texas Order*:

> Congress designed section 271 to give the BOCs an important incentive to open their local markets to competition, and that incentive presupposes a realistic hope of attaining section 271 authorization. That hope would largely vanish is a BOC's opponents could effectively doom any section 271 application by freighting their comments with novel interpretive disputes and demand that authorization be denied unless each one of those disputes is resolved in the BOC's favor. Indeed, if that were the required approach, the BOCs would face enormous uncertainty about the steps they need to take to win section 271 authorization, and they would therefore lose much of their incentive to cooperate in opening their local markets to competition in the first place. That result would disserve the public interest in greater competition both local and long-distance markets, and it would defeat the congressional intent underlying this statutory scheme. ¶ 26.

H. Touch America's Indefeasible Rights of Use (IRU) Complaint

1. On June 4, 2002, Touch America filed a Petition to Intervene and Motion to Reopen Issues. Touch America requests that this Commission reopen the § 271 proceedings and stay any recommendation to the FCC. Touch America states that in a complaint pending before the FCC that it has demonstrated that Qwest is violating the provisions of §§ 271 and 272 through the selling of lit fiber IRUs from the § 272 affiliate to the BOC.

2. **Decision**

a. We grant Touch America's petition to intervene because of the remarkably permissive intervention standards we have set in this docket. We do not rule on the merits of the Touch America complaint. This motion is dilatory, and there is no explanation for its late arrival into this process. Further, there is barely an attempt to explain its relevance to this proceeding. The incentive for participants to leverage collateral disputes into this process is great, but it should not be indulged. To the contrary, such regulatory gaming should be condemned. Touch America makes no attempt to tie its complaint to a § 271 remedy and offers no explanation for its delay in interposing its objections. The complaint can proceed apace in the appropriate forum, but will not be countenanced here.

V. SGAT ISSUES

A. Interim Prices Contained in Exhibit A to the SGAT

1. In AT&T's response to Qwest's April 19, 2002, motion seeking approval of its SGAT, AT&T claims that Qwest has added approximately 230 new rates to its Exhibit A that are neither just and reasonable nor consistent with this Commission's § 271 orders.

2. **Decision**

a. As stated previously, we find the rates filed by Qwest in Exhibit A to the SGAT and Appendix A to that exhibit to comply with the Commission decisions in Docket No. 99A-577T and to be acceptable for verifying to the FCC Qwest's § 271 compliance.

3. **Discussion**

a. AT&T states that Qwest's filing of an SGAT with 230 new rates flies in the face of the orders of this Commission, but it also creates an Exhibit A that this Commission cannot possibly approve under law, even on an interim basis.

b. AT&T provides Attachment A to its response that indicates all the new rate proposals that Qwest has unilaterally added to its SGAT. AT&T states that it requested during the § 271 workshops and the cost case that Qwest, instead of using ICB pricing for certain collocation and other services, price such services at rates similar to or derived from known rate elements of similarly approved products and services. At that point, Qwest refused, and this Commission upheld that refusal. In this new SGAT filing, Qwest chooses to supply these hundreds of new rates on an interim basis without the consideration of just and reasonable.

c. AT&T continues by stating that the incumbent must show that it has fully implemented the competitive checklist, including a demonstration that these 230 new rates are compliant. Therefore, AT&T submits, there exists no record upon which this Commission can determine whether Qwest meets the pricing requirements of the checklist.

d. In the May 7-9, 2002, Commission workshop record, Qwest explains the methodology used to derivate the new rates. Qwest, through the testimony of Paul McDaniel and Kris Ciccolo, responded that the new rates fall into one of two categories; either: (1) Qwest borrowed a rate from a similar product or service; or, (2) Qwest took the cost studies for the product or service and applied the Commission adjustments as ordered in Phase One of Docket No. 99A-577T.

e. Qwest stated that all of these new rates represent products or services that have low or no volumes. In addition, Qwest stated that these rates will be adjudicated in Phase Two of 99A-577T and the CLECs can make their arguments then.

f. Qwest's approach to these interim rates is reasonable. These rates are TELRIC-compliant within the bounds of TELRIC reasonableness identified by the FCC. The rates are derived from or analogous to rates fully litigated and set as TELRIC by this Commission. All parties in the 577T docket knew

that there would be a Phase Two that would include rates for new products and services not in Phase One. If Qwest's interim rates are found in Phase Two to be grossly over-recovering, then we will deal with the subject of a true-up mechanism.

B. §§ 7.3.1.1.3.1 and 7.3.2.2.1, Internet Service Provider Traffic

1. In its May 6, 2002, Response to Qwest's Motion seeking approval of its SGAT, AT&T states that Qwest has modified a sentence in these two sections that now clearly states that ISP-bound traffic is interstate in nature. AT&T asserts that this sentence should either remain as it was or that Qwest should cite to specific paragraphs in the FCC ISP Order that support its conclusion.

2. **Decision**

a. Neither this Commission's, nor Qwest's nor AT&T's opinion of the inter- or intra-state nature of ISP-bound traffic matters much. The D.C. Circuit has for the second time remanded to the FCC for reconsideration the agency's finding that ISP-bound traffic is interstate in nature. *WorldCom, Inc. v. Federal Communications Commission*, 288 F.3d 429 (D.C. Cir. 2002). The D.C. Circuit did not vacate the FCC's finding that ISP-bound traffic is interstate, instead it then took the remarkable step of directing the FCC to § 251(b)(5) as the possible location on which to hang its interstate conclusion.

Id. at 434. This gives us some confidence that the FCC will be able finally to conclude that ISP-bound traffic is interstate. Regardless of the final outcome, the FCC's final determination - and the courts' ultimate blessing of that conclusion - will be determinative of the jurisdictional status of ISP-bound traffic. Because Qwest's categorization of ISP-bound traffic coincides with this Commission's view of its status, the language is acceptable.

3. **Discussion**

a. AT&T states that Qwest has made a change in §§ 7.3.1.1.3.1 and 7.3.2.2.1 by deleting and adding the following phrase:

> ~~By agreeing to this interim solution, Qwest does not waive its position that Internet Related Traffic or~~ ISP-bound traffic delivered to Enhanced Service Providers is interstate in nature.

b. The FCC ISP Order became effective on June 14, 2001, and AT&T asserts that Qwest has made a number of SGAT filings since that time, but has waited almost a year before making this proposed change. AT&T asks this Commission to require Qwest to provide legal argument to support its interpretation of the FCC ISP Order as concluding that ISP traffic is interstate in nature or, at a minimum, Qwest should be required to cite specific paragraphs in this order that support its conclusions. AT&T would then be in a position to

respond to these arguments and the Commission would be in a position to make a decision.

c. Qwest responded to this concern during the *en banc* public interest workshop. At this workshop, Qwest stated that the internet bound traffic is jurisdictionally interstate and thus not subject to § 251(b)(5). Qwest cited *Declaratory Ruling on InterCarrier Compensation NPRM; Order on* Remand, CC Docket No. 99-68, 14 FCC Record 3689 at ¶¶ 21, 52 (April 27, 2001). Qwest also notes that the language it added to the SGAT is consistent with this Commission's findings in the Sprint, ICG, and Level 3 arbitrations.

d. As stated above, the FCC has made the determination that ISP-bound traffic is interstate in nature. The rationale has not held up in the D.C. Circuit, but the conclusion remains in place. We rely on our own independent decisions as well, in supporting Qwest's change to SS 7.3.1.1.3.1 and 7.3.2.2.1. We remain confident that consistent with our Sprint, Level 3, and ICG arbitration decisions—"bill and keep" will become the prevalent way of dealing with ISP-bound traffic, be it through FCC interstate jurisdiction or our own intrastate jurisdiction.

C. § 12.2.6, Change Management Process

1. AT&T states in its response to Qwest's Motion seeking approval of its SGAT, that § 12.2.6 of the April 29, 2002, SGAT does not contain language that has been agreed-to by Qwest and the CLECs in the CMP redesign group.

2. **Decision**

a. We order Qwest to update § 12.2.6 to include the language recently agreed to by Qwest and the CLECs in the CMP redesign group. This language includes a provision for modification of Exhibit G without the need for interconnection agreement amendments.

3. **Discussion**

a. AT&T asserts that § 12.2.6 contains certain language agreed to by Qwest and the CLECs in the CMP redesign group. However, AT&T offers that Qwest has agreed to draft additional language for this section that explains that the CMP document (Exhibit G), as modified, will be incorporated as part of the SGAT without the need for executing and filing amendments, as long as the modifications are made pursuant to the process for change set forth in the CMP document. AT&T states that this language has not yet been drafted and circulated among the CLECs for review.

b. Qwest stresses the language in § 12.2.6 in the April 29, 2002, version of the SGAT, is § 271 compliant and does not need to be changed for this commission to recommend approval of a § 271 application. Qwest acknowledges that the language is being re-worked in the CMP redesign group and that consensus language can be added at some later date. Qwest does not think the language needs to be included in the § 271 SGAT filing.

c. Between our public interest workshop and our decision meeting on June 13, 2002, the CMP redesign group has, in fact, reached consensus on additional language for this section. Because consensus has been reached, we order Qwest to include the agreed to language before filing with the FCC. The agreed to language to be added is:

> Notwithstanding any other provision in this Agreement, the CMP document attached as Exhibit G will be modified pursuant to the terms of Exhibit G, or the procedures of the redesign process, and incorporated as part of the SGAT without requiring the execution or filing of any amendment to this Agreement.

D. § 9.2.2.8, Access to Loop Information

1. AT&T's response to Qwest's motion seeking approval of its SGAT also claims that Qwest's revision to § 9.2.2.8, regarding access to a new manual look-up for loop information, is inconsistent with FCC orders and is ambiguous and that Qwest has not proven that this proposal is at parity

with the access to loop information available to any Qwest employee.

2. **Decision**

a. We require Qwest to change the language in § 9.2.2.8 using parts of the AT&T proposed language, and also to change the process so that the results from the manual look-up are given directly to the requesting CLEC, instead of only updating the LFACS database.

b. Section 9.2.2.8 should read as follows:

> If the Loop make-up information for a particular facility is not contained in the Loop qualification tools, if the Loop qualification tools return unclear or incomplete information, or if the CLEC questions the accuracy of the information in the Loop qualification tools, then CLEC may request that Qwest perform a manual look-up of the company's records, back office systems and databases where loop information resides. Qwest will provide the CLEC the loop information identified during the manual look-up within forty-eight (48) hours of Qwest's receipt of the CLEC's request for manual look-up. After completion of the investigation, Qwest will load the information into the LFACS database. In the event the manual look-up will take longer than forty-eight (48) hours, Qwest will notify CLEC within forty-eight (48) hours of the expected date upon which Qwest can provide the manual loop make up information.

3. **Discussion**

a. AT&T asserts that Qwest's new language regarding its manual look-up process for loop qualification information is not adequately described. AT&T states that this entire process is undefined and needs to be clarified to ensure parity of access to loop information. In addition, AT&T states

that Qwest's proposes to update its tool and the CLEC can review the additional loop data there, rather than supplying the back-office information directly to the CLEC. This proposal, according to AT&T, will delay the CLEC's access to this important information and give Qwest the opportunity to filter what is provided to the CLEC. AT&T claims that Verizon and SBC give CLECs the opportunity to receive information directly.

b. Further, AT&T complains that a standard interval should be set for the manual review of Qwest's back-office records. This interval should be set at 48 hours without the "unless it takes longer than 48 hours" language. Also, AT&T states that the loop qualification tool should not have the "IMA" reference. This may somehow limit the scope of this section of the SGAT. AT&T proposed language that makes the revisions outlined in its response.

c. Qwest responded orally to AT&T's assertions at the public interest workshop. Qwest stated that this language was "voluntary and CLEC-friendly" that was added because of CLECs' concerns about the adequacy of the Qwest loop qualification tools. Qwest stated that this process allows CLECs to request a manual look-up of loop make-up information in the unlikely event that information is not contained in the tools that Qwest currently offers, or if the information is returned as unclear. The manual review is uploaded to the

database within 48 hours. Qwest states that it is certainly amenable to reviewing AT&T's proposed language, but Qwest believes that its language captures Qwest's legal commitment and change is not necessary for § 271 compliance.

d. Qwest stated on the record that it was willing to work with AT&T on the language in § 9.2.2.8 and that it was not opposed to making some changes. We find that AT&T's proposed language reads more clearly than Qwest's language. We agree with AT&T on the deletion of the "IMA" loop qualification tool reference and on the necessity for CLECs to receive the loop-up information directly. We do not agree with AT&T on the need for a "standard interval" of 48 hours. We see no need to place such a requirement on Qwest without the opportunity for a longer time period when necessary, in the absence of: (1) more information about the manual look-up process and the time required by Qwest to perform the look-up, and (2) any defined measurement of the start and stop time for the 48 hours. We will require Qwest to include the sentence that begins: "In the event the look-up will take longer than 48 hours, . . . "

E. Section 9.2.2.8, Audit of Qwest's Back-Office Systems

1. AT&T states that the Washington Commission has ordered and the Arizona Administrative Law Judge has recommended that Qwest be required to allow CLECs to audit Qwest's back-

office records, systems, and databases in order to ensure that CLECs are obtaining the same access to loop information as any Qwest employee. To the extent Qwest is porting Washington-ordered SGAT language to Colorado, it should be required to bring all of it into the Colorado SGAT including this audit language.

2. **Decision**

a. We affirm our previous finding from Decision No. C02-406. AT&T has not offered any new information that would cause us to change our original ruling. Qwest is not required to added language to § 9.2.2.8 to allow a CLEC to audit its back-office systems or databases.

3. **Discussion**

a. The majority of AT&T's comments in its response regarding this issue deal with concerns it has with the Qwest proposed language before the Washington Commission. Because we do not agree that this provision needs to be added, we need not address AT&T's language concerns.

VI. SECTION 272 ISSUES

A. § 272(b)(3) The section 272 affiliate "shall have separate officers, directors and employees."

1. AT&T originally presented this issue in its August 3, 2001, § 272 brief and then again during the *en banc* Commission workshop on Public Interest May 7-9, 2002. AT&T

originally claimed that Qwest did not meet the requirements of this section because it allowed the transfer of employees from the BOC to the long distance affiliate. AT&T stated that "this wide-spread employee sharing subverts the purpose of section 272(b)(3)." In the Commission workshop, AT&T posed a slightly different concern. AT&T maintains that employees of the BOC should not be allowed to be hired by the affiliate, and vice-versa.

2. **Decision**

a. We will not place further restrictions on Qwest regarding the issue of the termination and hiring of its employees from the BOC to the affiliate or from the affiliate to the BOC.

3. **Discussion**

a. In its original brief on § 272 requirements, AT&T asserts there is a revolving-door atmosphere with employees going back-and-forth between the BOC and § 272 affiliates. There is widespread employee sharing, and many Qwest employees spend 100 percent of their time working for the § 272 affiliate.

b. In Decision No. R02-318-I, the hearing commissioner concluded:

> ". . . there is currently no payroll overlap, and appropriate safeguards are in place to establish independent operation between affiliates, including:

- Requiring the return of § 272 affiliate assets by an employee leaving the § 272 affiliate.
- Requiring employees leaving the § 272 affiliate to account for documents in their possession.
- Requiring employees leaving the § 272 affiliate to acknowledge that they will not disclose the affiliate's information.
- Non-disclosure agreements for employees who take positions in another Qwest entity.
- Training to ensure compliance with § 272.
- Annual employee review of Qwest's Code of Conduct.
- Providing for physical separation of the offices of QC and QCC. P.14.

c. Qwest mooted this concern by eliminating the sharing of employees. Qwest no longer allows the loaning of employees from the BOC to the affiliate or from the affiliate to the BOC.

d. In the public interest workshop on May 9, 2002, AT&T raised concerns with Qwest's new policy. AT&T stated that Qwest no longer loaning employees in the BOC to the § 272 affiliate is a "step in the right direction, but it's still not far enough." AT&T stated that the protections Qwest has in place to make sure that a former employee of one affiliate does not have access to the documents that he or she formerly had are insufficient. Even assuming that they are, AT&T still takes issue with a lack of restriction on people doing the same job or similar job that uses confidential knowledge that they already have for one affiliate or the other. There are no restrictions on the types of jobs that employees can handle transferring back

and forth between the two companies, and that is a source of major concern for AT&T.

e. In Qwest's oral response at the workshop, it stated that as the hearing commissioner and the Staff Volume VII report pointed out that there is no restriction on the transfer of employees. There is nothing in § 272(b)(3) or any FCC requirement that prohibits the transfer of employees from the BOC to the § 272 affiliate.

f. Qwest nonetheless indicated that it has put safeguards in place, ones not required by the FCC, to ease the CLECs' concerns. Specifically, an employee would have to be terminated and rehired to move from one entity to the other and would have to execute a confidentiality agreement that expressly precludes the use of the former employer's confidential information with the subsequent employer.

g. We agree with the hearing commissioner's findings, and, as it follows, we agree with Qwest that there are appropriate safeguards in place to limit the exchange of confidential information from the transfer of employees. To date, the FCC has made no mention in any of the § 271 orders of restrictions on the hiring of employees between the affiliate and BOC. Qwest makes valid points about the ability of AT&T, or any long distance provider, to hire former BOC employees. Qwest seems to have put the appropriate safeguards in place that

should prevent the sharing of confidential information. Therefore, we change nothing based on AT&T's concern.

B. § 272 (e)(1) Fulfillment of Requests for Telephone Exchange Service

1. Section 272(e) requires Qwest to fulfill requests from unaffiliated entities for telephone exchange service and exchange access within the same period, under the same terms and conditions, and at an amount that is no more than that for which it provides such services to its 272 Affiliate, or imputes exchange access services to itself (if Qwest is using the access for the provision of its own services). AT&T claimed at the *en banc* workshop May 7-9, 200, that Qwest should be required to report its special access provisioning at a level disaggregated enough to allow the comparison of performance the § 272 affiliate receives with the performance the Interexchange Carriers (IXCs) receive.

2. **Decision**

a. The information this Commission will receive for the special access reporting contained in the CPAP, coupled with the reporting Qwest will be publishing on a public web site after receiving § 271 approval, is sufficient for our needs. We do not require any further special access reporting specific to Colorado.

3. **Discussion**

a. AT&T's concern is that without special access performance reported on a disaggregated level, all we have is a representation from Qwest that it will not discriminate in favor of the affiliate. AT&T stated that, if there is no distinction or disaggregation in the reporting between the services provided to affiliates and services provided to non-affiliates, then Qwest can use that data to mask any discrimination that it is engaging in and undermine performance reporting and CPAP measures.

b. Qwest responded to AT&T's Motion to Modify Decision No. R02-318-I, on March 27, 2002. In its response, Qwest stated AT&T has never challenged Qwest's showing of compliance with § 272(e)(1) -- or any other aspect of § 272(e) -- in any of its prior pleadings. Qwest asserts that it has addressed the issue of its compliance with § 272(e) and has provided evidence that it stands ready to comply with all of the requirements of this subsection. Qwest has committed in its testimony that "[t]he BOC does not and will not discriminate in favor of the 272 Affiliate in the provision of telephone exchange service or exchange access." The record also includes substantial evidence that Qwest has controls in place that will assure such compliance with § 272(e)(1).

c. AT&T insists that Qwest must now disclose data on the time it takes to provide these § 272(e)(1) services to its § 272 affiliate, to permit a comparison with provisioning intervals for unaffiliated carriers. However, Qwest states, the BOC will have no data to compare provisioning intervals between affiliated and unaffiliated providers of in-region inter-LATA services until QCC, the affiliate, begins providing such services.

d. The FCC has made it clear that § 272(e)(1) "applies only when a BOC has an operational section 272 affiliate,"[18] and has proposed only that BOCs commit that they "*will* maintain" the required information "upon receiving permission to provide inter-LATA services pursuant to section 271." After Qwest receives § 271 approval, the FCC will have ample opportunity to verify its compliance with § 272(e)(1). Qwest's compliance record will be reviewed thoroughly as part of the biennial audit.

e. In Decision No. R02-516-I, the hearing commissioner found that AT&T should have raised this issue in its original brief or in the context of the CPAP. He states on page 5,

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[18] *Performance Measurements and Standards for Interstate Special Access Services*, Notice of Proposed Rulemaking, CC Docket No. 01-321, FCC 01-339 (released Nov. 19 2001), at ¶ 10.

> As a matter of procedure, which by now should be obvious to AT&T (footnote deleted), and because this issue has been more appropriately considered within the context of the PAP, I decline to reach the merits of AT&T's motion and Qwest's reply brief.

f. We agree with the representation of Qwest on this issue. We have already ordered special access reporting in the CPAP where special access circuits are used in lieu of UNEs. In reaching that decision, this Commission weighed the jurisdictional argument and determined Qwest's performance for special access circuits used by CLECs in the provisioning of local service, should be reported. We did not go so far as to include special access used by IXCs in Qwest's reporting.

g. It is our understanding of § 272(e)(1) that the FCC does require performance given to the affiliate by the BOC to be measured and reported after § 271 approval. Qwest has represented that it will post these reports to a public web site. This reporting for the FCC, coupled with our CPAP special access reporting, is sufficient for our monitoring purposes. If in the future, we determine Qwest is failing to provide non-discriminatory access to special access circuits, we will review our position within the appropriate CPAP review.

VII. TRACK A

A. The Act specifies conditions a BOC must satisfy in order to gain entry into the inter-LATA market, known

generically as Track A and Track B. *See* 47 U.S.C. §§ 271(c)(1)(A), (c)(1)(B). It is necessary to meet either Track A or B, but not both. Qwest applies under, and meets the requirements of, Track A.

B. Under Track A, there are four basic criteria:

1. The presence of binding interconnection agreements between the BOC and competitors;

2. Access to BOC services by competitors and interconnection with competitors by the BOC;

3. The presence of competitors in both the business and in residential markets; and

4. Competitors are present and offering services exclusively or predominantly over their own facilities.

C. Track A compliance requires little creative or interpretive analysis. One, Qwest has entered into or currently has in effect approximately 60 binding interconnection agreements. Two, access of competitors to the BOC and interconnection between the BOC and competitors references the physical facility connections, interoperability, and traffic exchange between the incumbent and competitors. The necessary connection and traffic exchange is supported by competent evidence. Further, the FCC imposes no requirements on the amount of traffic exchanged, only that the exchange mechanisms are fully operational and some traffic does flow. In Qwest's

case, the connection exists and local traffic flows between carriers. Three, competitors are present in both the residential and the business market, using one of the three entry strategies or envisioned by the Act. Four, as discussed under the public interest test, the FCC does not impose a market share threshold, *per se*. The FCC states that any level of actual competition need only exceed some "*de minimis*" level in those markets. There is no numerical value attached to the *de minimis* measure. Finally, the Qwest numbers on this topic meet or exceed the levels presented in other 271 applications that have been granted. Even if one were to take a pessimistic view of the calculations performed by Qwest, the method and results comport well with successful applicants.

VIII. ROC OSS TEST ISSUES

A. The Act and FCC orders implementing the Act require Qwest to provide just, reasonable, and nondiscriminatory access to its operations support systems and to provide the documentation and support necessary for CLECs to access and use these systems and to demonstrate that Qwest's systems are operationally ready. OSS issues permeate the 14-point competitive checklist of § 271.

B. The ROC OSS test was designed to determine if Qwest's OSS meets the requirements. The ROC OSS test evaluated

711 criteria. KPMG concluded that Qwest "satisfied" 645 of the criteria. Eleven of the criteria were found by KPMG to be "not satisfied."[19] KPMG was "unable to determine"[20] if 25[21] of the criteria were met. Another 27 criteria were identified for test purposes as "diagnostic." KPMG did not endeavor to make findings, but did report testing information on the diagnostic criteria. Where the test itself has not resulted in a satisfactory finding for a test criterion, this Commission has made a determination on the criterion.

A. Jeopardy Notice Issues Related to Test Criterion

1. KPMG found two test criteria, 12-9-4 and 12-9-5, relating to jeopardy notices "not satisfied" and two test criteria, 12-9-1 and 12-9-2, "unable to determine" relating to jeopardy notices for the ROC OSS test section 12, Evaluation of POP Functionality and Performance Versus Parity Standards and Benchmarks.

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[19] KPMG defined "Not Satisfied" as KPMG's analysis demonstrated that the evaluation criterion was not satisfied through existing business operations components (e.g., procedure, system, or document). A criterion was not satisfied by failing to meet a quantitative, qualitative, parity, or existence parameter established for purposes of the test. (see Final Report issued on May 28, 2002)

[20] KPMG defined "Unable to Determine" as KPMG's evaluation and analysis were not able to fully determine that a criterion was satisfied or not satisfied. There were several possible causes for an Unable to Determine results including: activities that took place inside a system and were, therefore, not visible to the tester; event-driven activities for which no event trigger occurred during the testing period; and activities that are planned to occur in the future, such as planned system or process changes.

[21] KPMG issued an errata on June 11, 2002 (see Exhibit 10, in June 10-12, 2002, workshop record) changing the result for Test Criterion 14-1-43 to "diagnostic." The Final Report issued on May 28, 2002 had listed the result for Test Criterion 14-1-43 as "unable to determine."

a. KPMG was unable to determine for test criterion 12-9-1 whether Qwest provides jeopardy notices in advance of the due date for resale products and services. According to KPMG's final report, Qwest did not issue any jeopardy notices for resale products and services in response to test bed transactions or commercial observations.

b. KPMG was unable to determine for test criterion 12-9-2 whether Qwest provides jeopardy notices in advance of the due date for UNE-P products. Similar to resale, KPMG reported that Qwest did not issue any jeopardy notices for UNE-P products and services in response to test bed transactions or commercial observations.

c. Test criterion 12-9-4 was not satisfied on whether Qwest systems or representatives provide timely jeopardy notices for resale products and services. During testing, KPMG identified eight missed resale orders for which no jeopardy notice was received by the P-CLEC. The dual statistical test for the PO-9 PID resulted in a "no decision" for this Performance Indicator Definition (PID). In accordance with, the Master Test Plan (MTP) guidelines, KPMG submitted this issue to the attention of the Technical Advisory Group (TAG), whose discussion resulted in an impasse. Subsequently, the ROC OSS test Steering Committee determined that Qwest should receive a failure for this PID.

d. Test criterion 12-9-5 was not satisfied on whether Qwest systems or representatives provide timely jeopardy notices for UNE-P. During testing, KPMG identified 11 missed UNE-P Orders for which no jeopardy notices were received by the P-CLEC. The dual statistical test for the PO-9 PID resulted in a "no decision" for this PID. In accordance with the MTP guidelines, KPMG submitted this issue to the attention of the TAG, whose discussion resulted in an impasse. Subsequently, the Steering Committee determined that Qwest should receive a failure for this PID.

2. **Decision**

a. We find that the "not satisfied" and "unable to determine" results for these test criteria regarding jeopardy notices do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. Qwest notes that the fact that jeopardy notices did not have to be issued for resale and UNE-P products and services should be viewed as positive because it suggests that Qwest was able to provision these products and services without delay. Qwest provides its Colorado commercial performance results for PO-8A, PO-8D, PO-9A, and PO-9D as evidence of meeting test criteria 12-9-1, 12-9-2, 12-9-4, and 12-9-5, respectively. The performance results indicate that

Qwest met the parity requirements for PO-8D, PO-9A, PO-9D[22] for several months. For PO-8A, Qwest did not meet the parity requirements until March 2002.[23] According to Qwest, substantial resources have been invested in improving performance in this area.

b. Qwest does not agree with the Steering Committee's determination that it failed the statistical test for PO-9A (test criterion 12-9-4) and PO-9D (test criterion 12-9-5). Qwest contends that the test results were inconclusive. Qwest argues that commercial performance results demonstrate that Qwest issues jeopardy notices for resale products and services on a nondiscriminatory, timely basis. Qwest further argues that its results for installation commitments met for non-design services for OP-3 demonstrates that Qwest's performance relating to jeopardy notices is not impeding the ability of CLECs to compete in Colorado.

c. AT&T asserts that Qwest's commercial data for Colorado demonstrates that Qwest discriminates against CLECs because Qwest never provided CLECs with as much advance notice of a due date miss as it did for similarly-situated retail customers. AT&T argues that even when Qwest's performance is

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[22] Qwest did not meet the parity requirement for PO-9D for April 2002 for Colorado.

[23] Qwest also met the parity requirement for PO-8A for April 2002 for Colorado.

not statistically significant, it is materially significant. AT&T asserts that the test results and commercial performance results are evidence that Qwest has failed to meet its obligations for checklist item 2.

d. WorldCom and Covad contend that jeopardy notices fulfill a key role in the completion of CLEC requests. Absence of a jeopardy notice indicates to a CLEC that the order will be completed as scheduled. If an order is not completed as scheduled and a jeopardy notice is not provided, according to WorldCom and Covad, the CLEC does not know that its resale or UNE-P customer's service was not activated as scheduled.

e. As KPMG notes during the ROC OSS test, no jeopardy notices were issued for resale and UNE-P product transactions and commercial observations. Also, very few jeopardy notices were not timely issued for resale and UNE-P products and services. The Commission has found that jeopardy notices are important to a CLECs ability to compete when it included measures for jeopardy notices in the CPAP.[24] In the absence of satisfied test criterion, the Commission looks to commercial performance. Qwest performance results indicate that the parity requirements for jeopardy notice measures for resale and UNE-P have been met for most of the last 12 months. Given

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[24] PO-8A and PO-9A for non-designed services and PO-8D and PO-9D for UNE-P (POTS) are included as Tier 1B measures in the CPAP.

the preeminence of commercial performance data, Qwest's systems remain compliant despite the KPMG jeopardy notice exception.

B. Human Error Issues Related to Test Criterion

1. KPMG was unable to determine whether Qwest met two test criteria, 12-11-4 and 12.8-2, for the ROC OSS test section 12, Evaluation of POP Functionality and Performance Versus Parity Standards and Benchmarks and one test criterion, 14-1-44, for the ROC OSS test section 14, Provisioning Evaluation relating to human error issues during the testing.

a. KPMG was unable to determine for test criterion 12-11-4 whether Qwest-produced measures of ordering and provisioning (OP) performance results for HPC transactions are consistent with KPMG-produced HPC measures. This correlates to closed/unresolved Observation 3110: "During the course of retesting Exception 3120, Qwest identified human error as the root cause for discrepancies identified with the calculation of provision intervals for PID OP-4." Due to human error issues identified in Exception 3120 and Observation 3110 regarding manual processing of data intended for use in PID reporting, KPMG identified a need for additional retesting. On a focus call held May 24, 2002, Qwest elected not to conduct any additional retesting. Without further retesting specifically designed to assess the impact of human error on the accuracy and

completeness of Qwest's PID reporting, KPMG was unable to conclude that Qwest satisfied this evaluation criterion.

b. KPMG was unable to determine for test criterion 12.8-2 whether procedures for processing electronically submitted non-flow-through orders are defined, documented, and followed. During retesting of Exception 3120, KPMG formally identified issues regarding orders that dropped for manual handling. Qwest elected not to conduct further retesting of this issue. Thus, KPMG was unable to assign a result for this evaluation criterion

c. KPMG was unable to determine for test criterion 14-1-44 whether Qwest-produced measures of ordering and provisioning (OP) performance results for HPC transactions are consistent with KPMG-produced HPC measures. At the conclusion of the retest associated with Exception 3120, KPMG formally identified an issue regarding human errors on three of 26 non-flow-through orders. KPMG subsequently reviewed all P-CLEC non-flow-through orders issued since February 1, 2002. This analysis revealed that of 109 total non-flow-through orders, 60 had problems with the system algorithm, which was the basis for the Exception 3120 retest. Of the remaining 49 non-flow-through orders, Qwest experienced a human error on seven. Without further retesting specifically designed to assess the impact of human error on the accuracy and completeness of

Qwest's PID reporting, KPMG is unable to conclude that Qwest satisfied this evaluation criterion. On a focus call held May 24, 2002, Qwest elected not to conduct any additional retesting.

2. **Decision**

a. The Commission shall require Qwest to develop and submit for inclusion in the CPAP a performance measure for Manual Service Order Accuracy to address human error issues that were revealed during testing.

3. **Discussion**

a. Qwest contends that the number of human errors is within a reasonable tolerance level. The majority of CLEC orders are processed on a flow-through basis, and the percentage of orders handled in flow-through has increased over time. According to Qwest, some percentage of orders will always require manual handling, and manual handling will always present the possibility of human error. Qwest has completed an internal audit of orders submitted in April and March for Resale/UNE-P and Loop products. Qwest's internal audit results for manual order accuracy are:

	March	April
Resale/UNE-P	95.7%	98.6%
Loop	98.5%	100%

Qwest contends it has made a significant effort, however, to reduce the incidence of human error in manual order processing.

In August 2002, Qwest states it will implement an IMA 10.1 enhancement that adds a system verification to ensure that the service order numbers and due dates on the FOC are pre-populated from the LSR, thereby substantially reducing manual processing errors in this area. Qwest states it also will offer CLECs a Pending Service Order Notice (PSON) shortly after the FOC. The PSON allows CLECs to validate that Qwest's order accurately and completely reflects what was ordered on the LSR.

b. In response to KPMG's April 30, 2002, "Qwest Manual Order Entry PID Adequacy Study," Qwest has agreed to develop and present a proposal using the long-term PID administration process for a new performance measure addressing manual processing order accuracy. Qwest states that it expects this will address concerns regarding the accuracy of manually handled orders.

c. AT&T asserts the OSS test has demonstrated that Qwest has serious problems in its manual handling of CLEC orders. AT&T is concerned because Qwest personnel manually handle nearly 12,000 orders for Colorado CLECs in a month. According to AT&T, KPMG found that Qwest personnel did not know how to properly treat CLEC orders and that there were excessive amounts of human errors being made by Qwest personnel as they processed CLEC orders. The errors affected Qwest's performance results because orders were excluded that should not have been

and orders were included that should not have been from the results calculation. AT&T contends that errors in the application date and time directly impact the OP-3 Commitments Met, OP-4 Installation Interval, and OP-6 Delayed Days PIDs.

d. According to AT&T, KPMG noticed that Qwest responded to observations and exceptions by attributing the problem to human error. Qwest responded that additional training of the personnel would remedy the problem. KPMG issued Observation 3086 to capture this concern. AT&T argues that KPMG used the wrong approach in deciding to close Observation 3086. In verifying that Qwest's improvements reduced the rate of human error to acceptable levels, AT&T claims that the obvious path would have been additional transactions designed to be manually handled and additional calls to Qwest's help desk. Instead, KPMG reviewed Qwest documentation, interviewed Qwest employees and observed Qwest employees at the order processing centers and CLEC help desk.

e. AT&T contends that Observation 3110 showed that the rate of human errors made by Qwest order processing personnel had not been reduced to acceptable levels. In total, KPMG examined 76 pseudo-CLEC orders that were manually handled by Qwest personnel as part of the Exception 3120 retest and historical data and found 12 instances of human error (15.8 percent). AT&T argues that 15.8 percent of the manually handled

P-CLEC orders that had human errors constitutes ample and sufficient evidence to show that Qwest had not remedied the human errors from Observation 3086. According to AT&T, KPMG's comparative analysis identified several problems that required Qwest to recalculate previously submitted performance data. AT&T asserts that the rate of human error introduced into orders processed by Qwest representatives remains a substantial problem. AT&T argues that until Qwest has demonstrated to the satisfaction of KPMG that its performance measurement results for manually processed orders are accurate and reliable, this Commission should not rely upon Qwest's reported performance results for performance measurements OP-3, OP-4, and OP-6. AT&T further asserts that Qwest's human error is significant enough to find the ROC OSS test results fatally flawed and advocates that additional testing be conducted.

f. The parties agree that perfection should not be expected. Human error is inevitable when manual processes are used. The parties disagree on how much human error is reasonable and whether additional testing should be conducted to ensure that the level of human error associated with Qwest's OSS does not interfere with competition.

g. The Commission finds that the human error uncovered does not suggest that the test results are fatally flawed. However, we acknowledge the need to address this

concern. KPMG's test revealed human error throughout the testing period and in retests. We acknowledge Qwest's offer to work through the long-term PID administration process to develop a PID for manual service order accuracy as a step towards addressing the issue. This offer does not go far enough to ensure that a timely and proper incentive will minimize human error levels on a going-forward basis.

h. Qwest shall work with interested parties to complete development of a PID for manual service order accuracy. This PID shall be added to the CPAP at the first six-month review.

i. The PID can be developed through a functioning long-term PID administration process. The lack of such a process does not extend Qwest's time to complete development of a PID for manual service order accuracy. If parties cannot reach agreement on a PID, then Qwest shall file its proposed PID with the Commission. The Commission will then seek comment on Qwest's proposal and make a decision before completion of the first six-month review of the CPAP.

j. If parties reach agreement on a PID for manual service order accuracy before the first six-month review of the CPAP, then Qwest shall file the PID for Commission approval pursuant to § 18.9 of the CPAP.

k. The standard for the PID initially shall be diagnostic. At the second six-month review of the CPAP, a benchmark will be established and the PID for manual service order accuracy will be added as a Tier 1B measure to the CPAP, unless parties agree that Qwest's performance does not warrant the addition of such a PID to the CPAP.

C. Issues With Unbundled Dark Fiber and Enhanced Extended Loop Test Criterion

1. KPMG found the test criterion, 14-1-10, for unbundled dark fiber (UDF), and the test criterion, 14-1-14, for enhanced extended loop (EEL), "not satisfied" for the ROC OSS test section 14, Provisioning Evaluation.

a. KPMG determined that test criterion 14-1-10 was not satisfied. The criterion focuses on whether Qwest provisions UDF by adhering to documented method and procedure tasks. This correlates to closed/inconclusive Exception 3010: "Qwest did not populate Dark Fiber installation test results in Work Force Administration (WFA) logs as mandated by the Unbundled Dark Fiber Customer Communication Technician-Implementer (CCT-I) Job Aid (Unbundled Dark Fiber Methods and Procedures, Designed Services DS 98-001-H)." In the absence of a documented Qwest standard or PID for accuracy of provisioning, KPMG applied a benchmark of 95 percent. During initial testing, KPMG observed 115 tasks (23 Unbundled Dark Fiber circuits). Of

these, Qwest provisioned 0 (0 percent) tasks in accordance with Qwest documented methods and procedures. As a result, KPMG issued Exception 3010. During retesting, KPMG reviewed 50 tasks (10 Unbundled Dark Fiber circuits). Of these, Qwest provisioned 32 (64 percent) in accord with Qwest documented methods and procedures. As discussed during a ROC TAG conference call, testing was subsequently suspended because of low commercial volume.

b. Test criterion 14-1-14 was not satisfied on whether Qwest provisions EEL circuits by adhering to documented method and procedure tasks. This correlates to closed/inconclusive Exception 3104: "Qwest personnel did not adhere to DS1 Enhanced Extended Loop (EEL) circuit provisioning methods and procedures." In the absence of a documented Qwest standard or PID for accuracy of provisioning, KPMG applied a benchmark of 95 percent. During initial testing, KPMG observed 79 tasks (11 EELs). Of these, Qwest provisioned 69 (87.3 percent) tasks in accordance with Qwest documented methods and procedures. As a result, KPMG issued Exception 3104. During retesting, KPMG observed 15 tasks (two EELS). Of these, Qwest provisioned nine (60 percent) in accordance with Qwest documented methods and procedures. As discussed during a ROC TAG conference call, testing was subsequently suspended because of low commercial volume.

2. **Decision**

a. We find that the "not satisfied" results for these test criteria regarding UDF and EELs do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. Qwest contends that UDF orders are not prevalent in the commercial setting so it is difficult to prove through commercial data that Qwest provisions them in accordance with documented methods and procedures. In Colorado, Qwest's commercial performance for PIDs OP-3D and OP-3E for UDF shows that there have been no dark fiber observations since September 2001. In Qwest's 14-state region, there have been no dark fiber observations since November 2001. According to Qwest, the FCC previously has held that, in the absence of adequate commercial data, a showing that the BOC is "capable" of meeting § 271's criteria can be sufficient. Qwest contends it has repeatedly shown that it follows documented methods and procedures in other contexts. Qwest argues that this establishes that there is no question that Qwest is capable of following the methods and procedures unique to UDF.

b. Qwest asserts it has repeatedly shown that it is capable of following documented methods and procedures in other contexts. Qwest argues that the Commission should find that Qwest complies with § 271 because of the requirement placed

on it by Docket No. 01I-041T for EELs to be considered for addition to the CPAP at the first six-month review.

c. AT&T contends that although there is no commercial data for Qwest to rely upon to demonstrate it can provide unbundled dark fiber to CLECs, the ROC OSS test was designed to determine if Qwest had the capability of providing dark fiber to CLECs. In addition, AT&T contends that the evidence in the record demonstrates that Qwest technicians do not follow Qwest's documented methods and procedures for provisioning UDF circuits. AT&T further contends that Qwest's latest filings provide no evidence to contradict KPMG's findings that Qwest technicians were not following Qwest's documented methods and procedures. AT&T asserts that KPMG's results demonstrate that Qwest is not capable of providing UDF to CLECs. AT&T argues that Qwest has not met the requirements of checklist item 4 and checklist item 5 because Qwest has not demonstrated that it is capable of providing UDF for unbundled loops or interoffice transport. AT&T also argues that Qwest has not met the requirements of Checklist Item No. 2 based on KPMG's "not satisfied" finding for test criterion 14-1-14 and based on Qwest's commercial performance which indicates that Qwest missed the OP-3D PID standard of 90 percent for EEL installation commitments met in the last four months of reported data.

d. The parties to the ROC OSS test agreed that fieldwork would not be required to be completed if it would impact Qwest's service to real customers. This Commission finds that it was not reasonable to expect Qwest to provision UDF or EELs for test purposes only. As Qwest points out, the Commission already has required EELs to be considered for addition to the CPAP at the first six-month review. Furthermore, the non-existent commercial volumes of orders for UDF and EELs betray these products' insignificance to CLECs operating in Colorado. CLECs that do not order these products cannot, by definition, be impaired by Qwest's OSS systems.

D. Issues With Parity Not Met for Non-dispatch Orders Related to Test Criterion

1. KPMG found two test criteria, 14-1-34 and 14-1-36, "not satisfied" relating to parity requirements for non-dispatch orders for Business POTS and UNE-P services for test ROC OSS test section 14, Provisioning Evaluation.

a. Test criterion 14-1-34 was not satisfied on whether Qwest meets the parity performance requirements PID OP-4C–Installation Interval Met for Business POTS. This correlates to closed/unresolved Exception 3086: "Qwest did not install non-dispatch orders for the P-CLEC within a time period that is in parity with Qwest's retail operations, as measured by the PID OP-4C." KPMG performed a Dual Test on the initial test

results, as required in Appendix G of the MTP, and determined that Qwest failed to meet the standard in the Eastern and Western regions. Exception 3086 was issued. Upon retesting, Qwest continued to fail in the Eastern region. Exception 3086 is closed/unresolved per Qwest's request. Based on the completion of the PID audit by Liberty Consulting and the retest results of Exception 3120, KPMG concluded that Qwest did not satisfy this evaluation criterion.

b. Test criterion 14-1-36 was not satisfied on whether Qwest meets the parity performance requirements PID OP-4C-Installation Interval Met for UNE-P services. This test criterion also correlates to "closed/unresolved" Exception 3086. KPMG performed Dual Test on the initial test results, as required in Appendix G of the MTP, and determined that Qwest failed to meet the standard in all three regions. Exception 3086 was issued. Upon retesting, Qwest failed in all three regions. Exception 3086 is closed/unresolved per Qwest's request. Based on the completion of the PID audit by Liberty Consulting and the retest results of Exception 3120, KPMG concluded that Qwest did not satisfy this evaluation criterion.

2. **Decision**

a. The Commission finds that the "not satisfied" results for these test criteria regarding parity not

met for non-dispatch orders for business POTS and UNE-P services do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. For Business POTS (test criterion 14-1-34), Qwest points out that it met this standard and passed the test in its Central and Western Regions, although KPMG found that Qwest did not satisfy this standard in the Eastern Region. Qwest notes that Colorado is located in Qwest's Central, not Eastern, region. Qwest argues that performance issues in connection with criterion 14-1-34 (non-dispatch Business POTS) therefore do not apply here. Qwest provided commercial performance in Colorado. That data shows that Qwest has met the required parity standard for OP-4C. For Business POTS, Qwest has satisfied the OP-4C parity standard in each of the last five months. For UNE-P POTS, Qwest satisfied the OP-4C parity standard in each of the past five months. Qwest argues that commercial performance under OP-4C demonstrates that CLECs have a meaningful opportunity to compete in Colorado.

b. AT&T contends that the test findings confirm that Qwest discriminates. AT&T argues that the test results conclude that Qwest has failed to demonstrate compliance with checklist item 2 for provisioning UNE-P services and checklist item 14 for provisioning business resale services.

c. WorldCom and Covad contend that the Qwest's failure to prove its ability to deliver Business POTS and UNE-P within the same installation intervals as it provides itself (parity) is a very serious concern for CLECs. UNE-P is one of the primary methods used by CLECs to compete in the local residential market. WorldCom and Covad argue if this test finding is not addressed and resolved, local competition will surely suffer.

d. Because Qwest did not meet the parity requirements for provisioning non-dispatched business POTS and UNE-P during the test, the Commission relies on Qwest's commercial performance to determine that Qwest's OSS is adequate. The commercial performance data established this. We further note that the Commission has included in the CPAP measures for provisioning of business POTS and UNE-P. Should Qwest fall short on these measures, CLECs will be compensated and Qwest will be penalized for subpar performance.

E. Insufficient Data Issues Related to Test Criterion

1. KPMG was unable to determine whether Qwest met three test criteria, 14-1-37, 14-1-38, and 14-1-39, relating to insufficient data obtained during the testing for the ROC OSS test section 14, Provisioning Evaluation.

a. KPMG was unable to determine for test criteria 14-1-37, 14-1-38, and 14-1-39 whether Qwest meets the

parity requirements for PID OP-6A–Delayed Days for Business POTS, Residential POTS, and UNE-P POTS respectively. In the Eastern and Western regions, Qwest did not delay any P-CLEC orders for business POTS. In the Central region, for the three business POTS orders delayed, Qwest took an average of 1 day to complete the orders as compared to 9.4 days for retail completion for Business POTS. KPMG performed a Dual Test, as required in Appendix G of the MTP, and determined that Qwest achieved a passing result in the Central region. Based on the completion of the PID audit by Liberty Consulting and the retest results of Exception 3120, KPMG concluded that Qwest satisfied this evaluation criterion for the Central region. Due to a lack of data for the Western and Eastern regions, the overall result for this test criterion is "unable to determine." Qwest did not delay during the test any P-CLEC orders for Residential POTS and UNE-P POTS. Consequently, KPMG was unable to determine a result for test criteria 14-1-38 and 14-1-39.

2. **Decision**

a. We find that the "unable to determine" results for these criteria regarding parity performance requirements for delayed days on business POTS, residential POTS, and UNE-P POTS do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. Qwest asserts that its commercial performance suggests that the criteria results pertaining to OP-6A should not prevent this Commission from finding that Qwest meets the required § 271 criteria.

b. The FCC has indicated that actual commercial experience provides the best evidence and that testing provides the second-best evidence. Therefore, we conclude that in the situation where commercial experience is contradicted or unsubstantiated by test evidence, the commercial experience must be given the weight. We note that Qwest has met the parity standard for May 2001 through April 2002 for delayed days for business POTS, residential POTS, and UNE-P POTS for Colorado. The existence of measures in the CPAP with associated penalties for failure to meet the performance standards gives the Commission comfort on a going-forward basis that the market will remain open to competition. The CPAP includes measures for provisioning of business POTS, residential POTS, and UNE-P POTS.

F. Issues With Maintenance and Repair Benchmark Not Met for CEMR Peak Volume Test Criterion

1. KPMG found test criteria, 16-3-5, "not satisfied" for the benchmark requirement for peak volume testing for ROC OSS test section 16, CEMR Functional and Performance Evaluation.

a. Test criterion 16-3-5 was not satisfied on whether "modify a trouble report" transactions are processed within the guidelines established by the ROC TAG. This correlates to closed/unresolved Exception 3107: "Qwest did not process ND EDIT transactions that were submitted to the Customer Maintenance & Repair (CEMR) system in the time frame defined by the benchmark." The ROC TAG-established benchmarks for processing Non-Designed (ND) Modify (Edit) transactions is 0:00:24 seconds. The peak day test results for ND EDIT transactions was 0:00:27 seconds. Based on the ND EDIT test result deficiency, KPMG issued Exception 3107. In response, Qwest conducted three internally administered tests to replicate the KPMG-administered test. KPMG stated that such a test executed by Qwest was inconsistent with the methodology set forth and agreed upon by the ROC TAG, and that there are no provisions for its consideration. Qwest requested that KPMG close Exception 3107 as "closed/unresolved."

2. **Decision**

a. The Commission finds that the "not satisfied" result for this criterion regarding benchmark not met for CEMR peak volume testing does not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. The capacity test for CEMR evaluated Qwest's response times at normal volume, peak volume and stress volume. According to Qwest, it successfully met all of the benchmarks for the 13 CEMR functionalities KPMG tested during the normal volume test, and met all of the benchmarks for 12 of the 13 functionalities KPMG tested during the peak volume test. During that test, Qwest processed ND EDIT transactions in 27 seconds, three seconds longer than the 24-second test standard.

b. Qwest independently set up and conducted three separate tests of ND EDIT transactions to trouble-shoot its CEMR response times. Each of these tests involved an even higher volume of transactions than those required by the Master Test Plan, and testing was conducted during the business day when other transactions were being processed. According to Qwest, it successfully met the 24-second test benchmark during each of these tests, posting average transaction response times of 18.9, 18.1, and 22.4 seconds. Qwest argues that the "not satisfied" status of evaluation criterion 16-3-5 and the closed/unresolved status of E3107 present, at best, an anomaly that need not be considered in assessing Qwest's capabilities in connection with CEMR.

c. According to AT&T, the modify trouble report is a critical component of the CEMR interface because it was

significant enough that Qwest agreed to the testing of the modify trouble report function in the CEMR interface and agreed to the 24-second benchmark. AT&T urges the Commission to dismiss Qwest's "home grown" ND EDIT transaction data for the same reasons as KPMG did: the ROC TAG agreed to a third-party test and there are no provisions in the MTP for consideration of Qwest-administered tests.

d. During the June *en banc* Commission workshop, Qwest's Ms. Notarianni testified that Qwest's attempts to trouble-shoot its CEMR did not reveal the cause for not meeting the 24-second benchmark during KPMG's testing. Ms. Notarianni stated that because of this, Qwest did not attempt to improve its systems or agree to have them retested.[25] The Commission notes that none of the CLECs indicated that this particular "not satisfied" test criterion was a fatal flaw in terms of accepting the overall test results.

G. Issues With Inaccurate and Missing Close-out Codes Relating to Test Criterion

1. KPMG found test criteria, 18-6-1 and 18-6-3, "not satisfied" relating to close-out codes for ROC OSS test section 18, End-to-End Trouble Report Processing.

a. Test criterion 18-6-1 was not satisfied on whether close-out codes for out-of-service and service-affecting

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[25] June 12, 2002, transcript, pages 59 and 60.

wholesale UNE-P, resale, and Centrex 21 troubles indicated in Qwest's systems, and that may or may not require the dispatch of a technician, are consistent with the troubles placed on the line. This correlates to closed/unresolved Exception 3055: "Qwest's OSSLOG Trouble History contained inaccurate closeout codes for repairs completed to Plain Old Telephone Service (POTS) Resale and UNE-P services." In the absence of a PID-defined standard, KPMG assigned a benchmark of 95 percent of close-out codes correctly applied. Of 201 troubles submitted, 177 (88 percent) were correctly coded. As a result of this deficiency, KPMG issued Exception 3055. KPMG's subsequent retest results indicated that, of 122 resale close-out codes reviewed, 108 (88.5 percent) were accurately coded. KPMG determined that the difference between Qwest's performance, and the performance standard used by KPMG, was statistically significant (p-value of .0032). Therefore, KPMG determined that Qwest's performance was unsatisfactory. Qwest asked that no additional testing be conducted, and requested that Exception 3055 be closed/unresolved.

b. Test criterion 18-6-3 was not satisfied on whether close-out codes for out-of-service and service-affecting wholesale DS1 and higher bit rate troubles indicated in Qwest's systems are consistent with the troubles placed on the line that may or may not require the dispatch of a technician.

This correlates to closed/inconclusive Exception 3053: "Qwest's OSSLOG Trouble History was missing the close-out codes for repairs completed to DS1 services." In the absence of a PID-defined standard, KPMG assigned a benchmark of 95 percent of close-out codes correctly applied. Of 10 troubles submitted, 9 (90) were correctly coded. As a result of this deficiency, KPMG issued Exception 3053. KPMG found that the difference between the performance result and the standard (p-value of .4013) is not statistically significant. However, KPMG determined that the sample size was insufficient to make a definitive conclusion that the criterion was or was not satisfied. KPMG extended Qwest the opportunity to increase the sample size by conducting additional testing. Qwest chose not to conduct additional testing. Therefore, KPMG closed Exception 3053 as inconclusive.

2. **Decision**

a. The Commission finds that the "not satisfied" results for these test criteria regarding inaccurate and missing trouble codes do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. The TAG did not develop a PID for close-out code accuracy. As a result, Qwest cannot provide commercial performance results to compare with test results. According to

Qwest, its performance during the retest would have satisfied a CLEC's needs. Close-out codes are used by Qwest to analyze the network, identify trends, and troubleshoot and repair potential problem areas. Close-out codes consist of four digits. The first two digits identify whether the trouble was a Qwest-issue or CLEC-issue, and, if a Qwest-issue, the internal Qwest department or equipment category that experienced the trouble. Qwest contends that the second two digits identify more specifically the group or equipment component within the broader category that experienced the trouble. These second two digits have virtually no effect on CLECs, as they do not affect Qwest's service to CLECs, Qwest's regulatory or financial reporting, or Qwest's commercial performance.

b. Trouble tickets also contain a narrative field. The narrative field is used by the Qwest technician, screener or dispatcher to further describe the found trouble, often with greater specificity than close-out codes can accommodate. In practice, the narrative field is always completed so the trouble experienced is clearly described for future analysis or reference. During the test, Qwest did not use accurate close-out codes for trouble reports on 14 HPC accounts. But five of the inaccurate close-out codes Qwest used were inaccurate only with respect to the second two digits, and all but six of the 14 contained accurate information in their

narrative fields. Qwest asserts that if KPMG had recognized the primacy of accurate narrative fields in closing out trouble tickets (rather than relying solely on coding number), KPMG would have found that, as a practical matter, 116 of the 122 HPC accounts (95.08 percent) satisfied real CLECs' needs. Qwest contends that the retest did demonstrate that Qwest cleared the circuit faults and restored quality service in a timely manner, which is indisputably the most important and potentially CLEC-impacting consideration. Qwest has since implemented additional training of its technicians to ensure that they code and close out all trouble tickets correctly. Qwest also has implemented a weekly internal audit of trouble tickets to ensure that, among other things, they contain the correct coding. These audits indicate that this additional training has improved Qwest's close-out code accuracy; performance has been at 95 percent or above for each of the past nine weeks and this standard has only been missed one time since February 1, 2002. Qwest argues that the circumstances of evaluation criterion 18-6-1 and Exception 3055 -- and the action Qwest has taken in response -- suggest that the results of criterion 18-6-1 do not prevent CLECs from a meaningful opportunity to compete in the market for local service.

c. Disposition and Cause (D/C) codes are necessary to determine who caused the trouble to occur (i.e. the

CLEC, the customer, Qwest or some other party) and the cause of the trouble. AT&T states that, while Qwest recognized the problem and asserted that it had implemented a solution, Qwest chose to have Exception 3055 closed as unresolved rather that subject itself to the rigor of a KPMG retest. AT&T contends that the Commission should be suspicious of Qwest's internally produced data given that Qwest had the opportunity for KPMG to conduct an independent retest and declined to pursue the option that would have produced more trustworthy results.

d. The Commission notes that none of the CLECs indicated that these particular "not satisfied" test criteria were fatal flaws in terms of accepting the overall test results. In fact, the Commission did not receive any written comments from CLECs on test criterion 18-6-3. The results from this test do not reveal a material impediment to CLECs using Qwest's OSS systems.

H. Issues With Troubles Not Successfully Repaired Relating to Test Criterion

1. KPMG found test criterion 18-7-1 "not satisfied" relating to troubles not successfully repaired for ROC OSS test section 18, End-to-End Trouble Report Processing.

a. Test criterion 18-7-1 was not satisfied on whether out-of-service and service-affecting wholesale UNE-P, resale, and Centrex 21 troubles that may or may not require the

CONTINUATION

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dispatch of a technician are successfully repaired. This correlates to closed/inconclusive Exception 3058: "KPMG has identified concerns that Qwest did not successfully repair all of the POTS Resale, UNE-P and UNE-L circuits submitted for repair." In the absence of a PID-defined standard, KPMG assigned a benchmark of 95 percent of correct repairs. Of 259 troubles submitted, 239 (92 percent) were successfully repaired. KPMG found that the difference between the performance result and the standard (p-value of .0372) is statistically significant. As a result of this deficiency, KPMG issued Exception 3058. Qwest and KPMG disagreed on both the performance standard used by KPMG to evaluate Qwest's performance, and over whether the troubles cited in this Exception were correctly resolved. Qwest asked that no additional testing be conducted. KPMG subsequently closed Exception 3058 as closed/unresolved.

2. **Decision**

a. The Commission finds that the not satisfied results for this test criterion regarding troubles not successfully repaired do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. According to Qwest, KPMG claims to have assigned a 95 percent benchmark to evaluation criterion 15-7-1

because no "PID-defined standard" was available. Qwest asserts that using PID MR-7, which was the product of collaboration between Qwest and CLECs, would have yielded meaningful results. MR-7 evaluates "the accuracy of repair actions, focusing on the number of repeat trouble reports received for the same trouble within a specified period (30 calendar days)." Qwest contends that MR-7 precisely measures the component that KPMG purported to measure because a repeat trouble report is an accurate barometer of the success of the first repair effort. KPMG should have used MR-7 because, in the past, the FCC has held that, in light of its analogous retail components, "a parity standard is a more appropriate measure of maintenance and repair response time than [an] absolute benchmark." Qwest further contends that if KPMG had relied upon MR-7 to assess Qwest's performance, KPMG would have found that Qwest handily met the appropriate standard for assessing the success of its repairs.

b. In Colorado, Qwest met the MR-7 parity standard for resold Business POTS in each of the past four months. During the same period, Qwest recorded a slight disparity in one month for resold Residential POTS in the category of orders requiring dispatches. As for UNE-P, Qwest achieved parity in each of the past four months for orders requiring the dispatch of a technician. For non-dispatch MR-7 orders during the same period, Qwest achieved parity only in

March. According to Qwest, the FCC has in previous Section 271 orders overlooked earlier performance discrepancies when the BOC's most recent performance has been satisfactory. This is the case with Qwest's UNE-P performance under MR-7 for non-dispatch orders. Qwest recorded a single disparity in January for analog loops, but that was the only disparity recorded for analog loops under MR-7 in the past twelve months. Qwest argues that its performance under MR-7 for resold Residential and Business POTS, UNE-P, and analog loops is generally excellent and is consistent with that of other BOCs that have received Section 271 approval.

c. AT&T asserts successful repair of troubles by Qwest that are found in CLEC services is a critical element in the satisfaction of a CLEC's customers. AT&T argues that a failure by Qwest to repair the service on the first attempt will necessitate a second visit to the customer and will likely reduce the level of customer satisfaction with the CLEC.

d. WorldCom and Covad contend that CLECs are dependent upon Qwest's Maintenance and Repair (M&R) procedures for ensuring that troubles with their UNE and resale customers will be successfully resolved. Therefore, they contend that this is a deficiency which must be rectified.

e. The Commission notes that none of the CLECs indicated that these particular "not satisfied" test criteria were fatal flaws in terms of accepting the overall test results.

I. Issues With No Events to Observe for Test Criterion

1. KPMG was unable to determine whether Qwest met two test criteria, 19.6-1-17 and 19.6.1.19, for the ROC OSS test section 19.6, Daily Usage Feed Returns, Production and Distribution Processes Evaluation; one test criterion, 22-1-10, for the ROC OSS test section 22, CLEC Network Provisioning—Network Design Request, Collocation, and Interconnection Trunks Review; one test criterion, 24.3-9, for ROC OSS test section 24.3, Account Establishment and Management Review; and one test criterion, 24.10-3-4, for ROC OSS test section 24.10, ISC/Billing and Collection Center Support Review because there were no events to observe.

a. KPMG was unable to determine for test criterion 19.6-1-17 whether DUF is corrected and returned according to a defined schedule. In interviews with Qwest personnel, and through documentation reviews, KPMG was able to verify the existence of the process. However, since this process is performed only when events require such action to be taken, and KPMG observed none of those such events, KPMG was unable to observe and to determine whether the process is sufficiently robust, or whether Qwest adheres to the process.

b. KPMG was unable to determine for test criterion 19.6-1-19 whether CLECs can readily obtain status on

DUF return requests. In interviews with Qwest personnel, and through documentation reviews, KPMG was able to verify the existence of the process. However, since this process is performed only when events require such action to be taken, and KPMG observed none of those such events, KPMG was unable to observe and to determine whether the process is sufficiently robust, or whether Qwest adheres to the process.

c. KPMG was unable to determine for test criterion 22-1-10 whether defined processes for NDR implementations are adhered to. KPMG's interviews with Qwest NDR personnel, and documentation reviews revealed that Qwest did not process any commercial NDR orders during the execution of this test. Thus, KPMG cannot determine whether or not Qwest adheres to the process, using traditional operational analysis techniques. KPMG is unable to determine whether Qwest's processes satisfy this evaluation criterion.

d. KPMG was unable to determine for test criterion 24.3-9 whether customer calls are returned per documented/stated intervals. On April 5, 2002, Qwest published expected interval guidelines for Account Team communication on its Wholesale Web site. However, due to the test schedule for the OSS Evaluation, and Qwest's recent establishment of several communication response time guidelines, KPMG was not able to observe Qwest's adherence to the documented process for Service

Management response time intervals. KPMG was also not able to monitor any P-CLEC feedback to the Account Team based on the recently publicized communication intervals.

e. KPMG was unable to determine for test criterion 24.10-3-4 whether training of representatives is defined, documented, and followed. Qwest's training curriculum for representatives exists and is documented. KPMG was able to verify the existence of Qwest's process. Since this process is performed only when events require such action, and KPMG observed none of those such events, KPMG was unable to observe and determine whether or not Qwest adheres to the process.

2. **Decision**

a. The Commission finds that the "unable to determine" results for these test criteria do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. According to Qwest, its CCUR system is designed to receive/return DUF records, analyze and determine correct billing numbers, and re-deliver DUF records within three days to the correct CLEC. In addition, CCUR generates a confirmation report indicating receipt of returned usage, which provides CLECs with details such as whether the item is accepted, rejected, or dropped by CCUR. Qwest asserts that KPMG verified the existence of these processes; however, KPMG

could not evaluate the use of CCUR because during the test no CLECs subscribed to this automated process. Qwest notes that HPC, in its role as P-CLEC, confirmed that CLECs are capable of using CCUR to return usage records to Qwest.

b. According to Qwest, CLECs have an alternate to address incorrect usage sent on the DUF. Qwest provides Service Delivery Coordinator (SDC) personnel, each assigned to specific CLECs, to handle and direct CLEC billing-related requests or concerns. KPMG verified the existence of this process and found that Qwest "satisfied" the test criterion (19.6-1-18). Qwest argues that the "unable to determine" status of test criteria 19.6-1-17 and 19.6-1-19 do not prevent this Commission from finding that Qwest has in place an adequate process for adjusting usage, and thus complies with § 271.

c. Qwest has not had to process any NDRs in the course of the test. KPMG's findings comport with Qwest's real-world experience. Because the process typically is used only by new entrants, Qwest has not completed any NDRs in the past year. Of the two potential orders Qwest has received, one was submitted by an unqualified CLEC and the other by a CLEC for which negotiations are currently underway. Qwest argues that the status of test criterion 22-1-10 should not stand in the way of a finding of § 271 compliance.

d. Qwest has established a comprehensive feedback mechanism for CLECs to meet with the Service Management teams. Through this comprehensive feedback mechanism, Qwest documents meeting minutes and action items, and tracks and reports any issues that may arise. KPMG noted in the *Draft Final Report* that Qwest had updated its process for Account Team members regularly to obtain feedback from CLECs about their ability timely to respond to customer calls. Further, KPMG noted that Qwest had updated its Service Management Issues database that tracks the status of issues for CLEC customers and also published revised intervals on its Wholesale Website. Qwest argues that, in light of these developments, KPMG's designation of test criterion 24.3-9 as "unable to determine" should not preclude a finding by this Commission that Qwest has met the requirements of § 271.

e. According to Qwest, KPMG concluded that it was "unable to determine" whether Qwest follows its training procedures because, as representatives are trained only as needed, no such training processes took place during the test.

f. The Commission acknowledges that there was no activity for KPMG to observe during the testing period. We note that CLECs did not file any written comments on any of these test criteria. Therefore, we conclude that these test criteria are of lesser importance to CLECs.

J. Issues With Bill Production Related to Test Criterion

1. KPMG was unable to determine whether Qwest met four test criteria, 20.7-1-3, 20.7-1-4, 20.7-1-5, and 20.7-1-9, for the ROC OSS test section 20.7, Bill Production and Distribution Process Evaluation.

a. KPMG was unable to determine for test criterion 20.7-1-3 whether cycle balancing procedures exist to identify and resolve out-of-balance conditions. Procedures for cycle balancing are defined in Qwest documents. KPMG's interviews with Qwest IABS Billing Process, IABS Software Development, and CRIS Billing Applications Operations personnel revealed that Qwest's activities associated with this criterion are embedded in automated systems, rather than in manual processes. Thus, it is impractical for KPMG to determine whether or not the process is sufficiently robust, or whether Qwest adheres to the process, using traditional operational analysis techniques. Accordingly, KPMG is not able to conclusively validate Qwest's adherence to its defined cycle balancing processes. Therefore, KPMG must assign an "unable to determine" result for this criterion.

b. KPMG was unable to determine for test criterion 20.7-1-4 whether process includes reasonability checks to identify errors not susceptible to pre-determined balancing procedures. The process used for bill validation is documented.

In interviews with Qwest personnel, and through documentation reviews, KPMG was able to verify the existence of the process. However, since this process is performed only when events require such action to be taken, and KPMG observed none of those such events, KPMG was unable to observe and determine whether the process is sufficiently robust, or whether Qwest adheres to the process. During final retesting of bill accuracy, KPMG did receive correct bills. However, KPMG is not able to determine whether these bills are correct because of the bill creation process, or because of adherence to Qwest's defined post-production quality assurance processes. Therefore, KPMG must assign an "unable to determine" result for Qwest's adherence to its post-production quality assurance process.

c. KPMG was unable to determine for test criterion 20.7-1-5 whether process includes procedures to ensure that payments and adjustments are applied. Procedures exist to ensure that payments and adjustments are applied. KPMG's interviews with Qwest CRIS Billing Applications Operations personnel, and documentation reviews revealed that Qwest's activities associated with this criterion are embedded in automated systems, rather than in manual processes. Thus, it is impractical for KPMG to determine whether the process is sufficiently robust, or whether or not Qwest adheres to the process, using traditional operational analysis techniques.

KPMG is, therefore, unable to determine whether Qwest's automated processes satisfy this evaluation criterion. Further, no KPMG transactions test was designed to make payments or generate claims for which adjustments would have been generated. As a result, KPMG was not able to evaluate transaction test outputs to determine the effectiveness of Qwest's payment and adjustment application processes.

d. KPMG was unable to determine for test criterion 20.7-1-9 whether process includes procedures to ensure that bill retention requirements are operationally satisfied. Bill details are retained for a period of six years. Summary bill information is retained for 15 years. As the duration of this evaluation did not meet or exceed the bill retention timeframe requirements specified by Qwest, KPMG was not able to evaluate Qwest's compliance with the documented retention process.

2. **Decision**

a. The Commission finds that the "unable to determine" results for these test criteria do not impact CLECs' ability to use Qwest's OSS.

3. **Discussion**

a. Qwest contends that KPMG's finding is by no means a negative finding; rather, it is simply an acknowledgment that KPMG could go no further with its evaluation of this

criterion. Qwest asserts that for what KMPG was able to evaluate—including voluminous supporting documentation—it was found to be satisfactory.

b. Qwest contends that KPMG did determine that Qwest's bills are accurate. For the past seven months, Qwest Colorado commercial performance consistently has met or exceeded parity with respect to accurate Wholesale bills, PID BI-3A. Qwest argues that the "unable to determine" for test criterion 20.7-1-4 does not prevent this Commission from finding that Qwest complies with Section 271.

c. Qwest asserts that KPMG's comprehensive approach in evaluating Qwest's bill production and distribution processes provides this Commission with ample evidence that these processes are in place and can function properly. In the course of its evaluation, KPMG interviewed Qwest subject matter experts; reviewed both internal and external Qwest documentation; and examined Qwest's processes, operational methods and procedures, organizational charts and supporting documentation. Qwest contends that nothing suggests that KPMG's findings found Qwest's processes lacking. Qwest argues that evidence exists to support a finding that Qwest is capable of properly applying payments and adjustments to its bills.

d. Qwest contends that it is impossible to prove in a two-year test that a company retains billing

information for six or 15 years. Local competition under the Act only became possible six years ago. Qwest represents that it possesses bills issued to CLECs that established service as far back as 1996 and 1997. Qwest argues that it is only logical that the "unable to determine" status of evaluation criteria 20.7-1-9 should not affect a finding of § 271 compliance.

e. During the testing period, there was nothing for KPMG to conclude related to these test criteria. We note that CLECs did not file any written comments on any of these test criteria. Therefore, we conclude that these test criteria are of lesser importance to CLECs.

K. Diagnostic Test Criterion

1. Eleven test criteria were classified "diagnostic" for ROC OSS test section 12, Evaluation of POP Functionality and Performance Versus Parity Standards and Benchmarks; ten test criteria were classified "diagnostic" for test section 13, Order Flow-through Evaluation; three test criteria were classified "diagnostic" for test section 14.1, Provisioning Evaluation; two test criteria were classified "diagnostic" for test section 15, POP Volume Performance Test; and one test criterion was classified "diagnostic" for test section 16, CEMR Functional and Performance Evaluation.

a. KPMG only reported information but did not report a specific result for the 27 total test criteria that were classified as diagnostic. Some of these test criteria measured results for specific PID submeasures (i.e., PO-4A, PO-4B, and PO-4C). At the commencement of testing, if the standard

for the PID submeasure was not established, it was "diagnostic." Therefore, these test criteria were treated as diagnostic for the test period, even though standards were agreed to and set for some of the PID submeasures (i.e., PO-2B) prior to the end of the test period.

2. **Decision**

a. The Commission takes no action regarding the test criteria classified as diagnostic, and acknowledges that specific results were not reported for these measures.

3. **Discussion**

a. WorldCom and Covad assert that the level of flow-through available to CLEC orders directly impacts the efficiency and effectiveness of how orders are handled. They further assert that adequate flow-through levels are even more critical as order volumes increase.

b. All of the test criteria, except one for test 13, Order Flow-through Evaluation, were classified as diagnostic. The Commission draws no conclusion from the information reported for these test criteria. The CPAP includes order flow-through measures (PO-2A and PO-2B) with specific benchmarks in Tier 2. If these measures are not met, then Qwest shall pay into the Special Fund.

c. No comments were received on any of the other diagnostic test criteria. The Commission also draws no

conclusion from the information reported for these other test criteria. Regarding the diagnostic test criteria, the Commission finds that the ROC OSS test met the intent in that information was reported for each of the diagnostic test criteria.

L. Issues With Satisfied Findings for Test Criterion

1. The Commission solicited comments from the parties regarding any disagreement with a finding of "satisfied" for a test criterion[26].

a. AT&T asserts that test criteria 19.6-1-1 (whether DUF production and distribution procedures are clearly defined); 19.6-1-4 (whether DUF balancing and reconciliation procedures are clearly defined); 19.6-1-5 (whether DUF routing and guiding is controlled by defined and documented processes; and 19.6-1-6 (whether DUF routing and guiding contains functionality to adequately address pending and completed service order activity) warranted a finding of "not satisfied" instead of the actual finding of "satisfied".

2. **Decision**

a. The Commission requires no further retesting or other action for test criteria 19.6.1-1, 19.6.1-4, 19.6.1-5, and 19.6.1-6.

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[26] *see* Decision No. C02-546, paragraph I.C.8.a(4).

3. **Discussion**

a. AT&T contends that the test has not established that Qwest has a mechanism in place to detect problems with the completeness and accuracy of its DUF production and distribution processes. In support of its position, AT&T argues that KPMG inappropriately concluded that Qwest satisfied these test criteria, and that Qwest's repeated failure of the DUF retest demonstrates serious problems with Qwest's DUF production and distribution processes.

b. The Commission accepts KPMG's professional judgment in finding these test criteria "satisfied." All parties agreed to military style (test until it passes) testing for the ROC OSS test. DUF testing was conducted six times before KPMG concluded that Qwest passed.

M. CLEC Participation Issues

1. KPMG disclosed information identifying specific test sections that contain conclusions that were based, in whole or in part, on representations, information, or data obtained from or provided by CLECs which had unfiled, "secret" agreements with Qwest[27].

a. The CLECs advocate that the Commission delay making a finding on the ROC OSS test until an investigation can

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[27] *See* Exhibit 5, KMPG Consulting's CLEC Participation Summary and Evaluation.

be completed to determine what, if any, impact the non-disclosed agreements had on the ROC OSS test results.

2. **Decision**

a. The Commission requires no determination of the impact, if any, of the non-disclosed agreements between CLECs and Qwest on the ROC OSS test results.

3. **Discussion**

a. The CLECs contend that they cannot individually determine if the unfiled agreements caused Qwest to discriminate between CLECs because each CLEC only has access to its own Qwest reported performance data and does not have access to Qwest reported performance data for other individual CLECs.

b. The Commission notes that CLECs do have access to aggregate CLEC data. In fact, such data is public information. A CLEC can determine how its own data compares to the aggregate CLEC data. If a CLEC had done the comparison and concluded that the comparison suggests there is different treatment by Qwest, then the CLEC should have -- and surely would have -- presented that information in this proceeding to the Commission. No CLEC has presented this type of comparison information to the Commission. Therefore, the Commission concludes that the CLECs have not brought forward any information that suggests the unfiled agreements corrupted the

test data. The impact on the integrity of the test was negligible, at worst.

N. Data Reconciliation

1. Liberty Consulting, upon completing data reconciliation that compared CLEC-collected data to Qwest-collected data, concluded that Qwest's performance reporting accurately and reliably reports Qwest's actual performance.

a. Liberty Consulting performed data reconciliation and issued separate reports for Arizona, Colorado, Nebraska, Washington, Oregon, Minnesota, and Utah.

2. **Decision**

a. The Commission agrees with Liberty Consulting's conclusion that Qwest accurately and reliably reports actual performance data and results.

3. **Discussion**

a. Colorado held proceedings regarding data reconciliation on February 5, 2002 and continued on February 14, 2002. In addition, the Commission allowed parties to address data reconciliation on June 12, 2002 during its final *en banc* proceeding. During its proceedings the Commission did not receive any evidence that would lead us not to believe the conclusions made by Liberty Consulting.

O. Overall Commission Finding on the ROC OSS Test

1. Decision

a. The Commission finds, through the ROC OSS test and commercial performance data, that Qwest has demonstrated that its operation support systems are operationally ready, except for the potential for human error. Taking into consideration the requirement placed on Qwest to develop and include in the CPAP a performance measure for Manual Service Order Accuracy, the Commission concludes that the ROC OSS test is sufficient for demonstrating Qwest's compliance with § 271.

2. Discussion

a. During the *en banc* workshop, parties were given the opportunity to indicate if anything was missing from the ROC OSS test. No party stated to this Commission that the ROC OSS test was missing anything or was deficient in any manner.

IX. CHANGE MANAGEMENT PLAN (CMP) ISSUES

1. In evaluating RBOC change management plans under Checklist Item 2 of § 271, the FCC has relied on the following factors: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in

the design and continued operation of the change management process; (3) that the change management plan 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 RBOC makes available for the purpose of building an electronic gateway. The FCC has also examined two additional factors: whether an RBOC has demonstrated a "pattern of compliance" with its own change management plan and whether it has provided adequate technical assistance to CLECs in using the RBOC's OSS.

2. In July 2001, Qwest and CLEC representatives began meeting in a collaborative effort to redesign its change management procedures. CLEC and Qwest representatives, together with the Colorado Commission Staff, have met for more than 45 days over the past 11 months to discuss every aspect of Qwest's CMP. CLECs and Qwest have made every effort to achieve consensus. Only one item was brought to this Commission on impasse.

3. The CLEC/Qwest redesign team agreed to begin with OBF Issue 2233, version a1 v1, as a starting point for negotiating the redesigned CMP. To date, virtually all the OBF document has been discussed and base-lined, as reflected in Exhibit G to the SGAT. The only discussion that has not been completed by the redesign group is the voting process for the

CMP. The face-to-face redesign meetings have ended, and only *ad hoc* conference calls remain.

4. Once the redesign team reached agreement, Qwest implemented the agreement as soon as practicable. During the redesign meetings, Qwest and CLECs agreed to a process for Qwest's implementation of redesign agreements that included Qwest's presentation of the agreements to the broader CLEC world at the monthly CMP meeting prior to implementation. From the time that process was agreed to, Qwest first presented agreements reached through the redesign effort to the CLECs at the monthly meetings before implementing them. The redesign team agreed that, upon completion of the redesign process, the parties would have the opportunity to revisit any part of the redesigned plan in light of the whole. The FCC has recognized that the change management process is evolutionary, by definition:

> We do not expect any change management plan to remain static. Rather, a key component of an effective change management process is the existence of a forum in which both competing carriers and the BOC can work collaboratively to improve the method by which changes to the BOC's OSS are implemented.[28]

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[26] *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 and Opinion Order, FCC 00-238 (rel. June 30, 2000) ("*Texas 271 Order*"), at ¶ 117.

5. In the ROC OSS test, Test 23 focused on Change Management. The Change Management Test evaluated Qwest's change management process used by CLECs engaged in the Qwest-CLEC business relationship. The test tried to determine the adequacy and completeness of procedures for developing, publicizing, evaluating, and implementing changes to Qwest's Wholesale OSS interfaces and business processes. The test also focused on the tracking mechanisms of proposed changes and adherence to established change management intervals.[29] KPMG referenced 48 test criteria for Test 23. Of these 48, KPMG found 7 to be "unable to determine."

6. Closely related to Test 23 and the CMP is Test 24.6. Test 24.6 evaluated Qwest's OSS Interface development. This test evaluated Qwest's documentation, specifications, and support provided to CLECs in developing, providing, and maintaining OSS interfaces for pre-ordering, ordering, maintenance and repair, and billing. This test also included an assessment of Qwest's capacity management and growth planning processes. KPMG identified 30 test criteria for Test 24.6. Of these 30, KPMG found two to be "not satisfied."

7. We address each of the "unable to determine" and

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[29] KPMG OSS Evaluation Final Report Version 2.0, April 28, 2002.

"not satisfied" criteria individually.

A. Test Criterion 23-1-7: Tracking of Information (Systems)

1. KPMG found this criterion, 23-1-7, "unable to determine." This criterion relates to the evaluation of whether the procedures and systems are in place to track information such as descriptions of proposed changes, key notification dates, and changes status. This criterion correlates with Exception 3110.

a. KPMG was unable to validate the procedures and systems for tracking release documentation requirements.

b. Qwest uses a Microsoft Access database to track Qwest- and CLEC-initiated Systems Change Requests (CRs). The interactive status report generated from this database is available on the CMP Web site, and is included in the monthly CMP distribution package.

c. The draft CMP document specifies that Qwest will provide CLECs with a list of changes scheduled for implementation in an upcoming software release. Qwest provides CLECs with release documentation requirements in accordance with the intervals in the draft CMP document. If Qwest determines that it will not be able to implement a CR as scheduled, Qwest will discuss options at the next monthly CMP meeting. KPMG was not able to verify Qwest's compliance with the complete notification processes.

d. During testing, KPMG identified that Qwest lacked proper tools to track notifications, and to ensure that information was distributed to CLECs in accordance with the intervals specified in the draft CMP document. KPMG issued Exception 3110.

e. Qwest subsequently provided KPMG with documents describing Qwest's internal procedures that individual software release teams use to comply with CMP requirements. However, Qwest confirmed that change management staff did not have a centralized mechanism to track and ensure that documentation release intervals for all upcoming software releases were followed. Although the documentation provided sufficient evidence that tracking procedures exist, the information was not sufficient for KPMG to determine that Qwest adheres to the documented process.

f. KPMG closed Exception 3110 as inconclusive.

2. **Decision**

a. PO-16 in the CPAP, covers the timeliness of the initial release notifications and subsequent release notifications. This PID has a 100 percent standard and carries a $200 per day penalty for the initial notification due date missed and a $50 per day penalty for subsequent notification due date missed. Qwest has demonstrated that it has met these release timelines for two of the last six months (with another

two with no notifications sent in those months). The milestones and notification timeframes are clearly spelled out (as agreed to by the redesign team) in the CMP documents.

b. Because this measurement is contained in our CPAP and because the redesign team has recently more clearly identified the release notification intervals, we find that the "unable to determine" result for this test criterion do not impact the CLECs ability to receive release notifications in a timely manner, and for those release milestones to be tracked internally as well as on Qwest's CMP web site.

3. **Discussion**

a. Qwest states that it has an overall 98 percent compliance rate on its CMP obligations. More to the point, Qwest has adhered to 100 percent of the OSS interface release documentation interval notification milestones it has reached thus far. Qwest's record of compliance, coupled with its success in adhering to the very notification intervals that are the subject of the Exception 3110, demonstrated that Qwest's tracking and verification procedures are adequate.

b. Ms. Schultz, Qwest's Director of CMP, further stated that Qwest does have an internal tracking procedure for these notifications. There is a project manager responsible for meeting each of these milestones. She communicates with various Qwest organizations to ensure the

timely "mailing" of initial and subsequent release notifications.

c. Qwest states that its record of compliance, coupled with its success in adhering to the very notification intervals that are the subject of Exception 3110, demonstrate that Qwest's tracking and verification procedures are adequate.

d. The Joint CLECs (AT&T, WorldCom and Covad) state in their April 8, 2002 filing on Change Management that Exception 3111 was opened on January 30, 2002, after Observation 3067 was converted to an exception, and stated that Qwest Systems CMP lacks guidelines for prioritizing and implementing CLEC-initiated systems CRs and that criteria are not defined for developing the scope of an OSS Interface Release Package. Because KPMG closed this exception as inconclusive, the Joint CLEC assert this clearly reveals a problem with Qwest's current CMP and neither this Commission nor the FCC can find other than that Qwest fails to adhere to its CMP process and that the process is, as yet, not adequate to meet the FCC's five criteria required for approval.

e. In addition, WorldCom and Covad filed comments on the OSS test report, including CMP, on June 5, 2002. In their comments, the CLECs state that it is premature to accept Qwest's CMP as compliant until such time as KPMG and

Liberty, through PO-16, have sufficiently observed actual, present compliance.

f. As stated above, we find that the presence of PO-16 in the CPAP, as well as the more clearly defined milestones relating to a software release in Exhibit G to the SGAT, are sufficient. It is our opinion that KPMG's finding of "unable to determine" would have been changed to satisfied if KPMG had been given another month or two of testing. The CMP is an ever-changing process. Especially in the last three months, great strides have been made in reaching a plan that benefits both Qwest and the CLECs and their business relationships. The ROC OSS test had to conclude at some point. Unfortunately, the timing was such that the CMP had not been fully agreed-to. Since the conclusion of the test, we have had the opportunity to gather additional performance measurements and first-hand knowledge of the redesign process. These sets of information lead us to our conclusion stated above.

B. Test Criterion 23-1-8: Prioritization and Severity Coding (Systems)

1. KPMG found this criterion, 23-1-8, "unable to determine." This criterion relates to whether criteria are defined for the prioritization system and for severity coding. This criterion correlates to Exception 3111.

a. KPMG stated in its test evaluation that the Systems CMP requires both Qwest and CLECs to participate in the

prioritization process. A prioritization vote is necessary when the available capacity of an OSS interface or test environment release is unable to accommodate all outstanding CRs. Qwest and CLECs jointly rank the priority of Qwest- and CLEC-originated CRs for that particular software release by using a quantitative evaluation method.

b. Regulatory and industry guideline changes are not subject to the prioritization process. The Special Change Request Process allows Qwest or CLECs to financially sponsor a CR and bypass the prioritization process. This also falls out of the prioritization process.

c. The prioritization process for IMA 10.0 was the first time that Qwest had submitted Qwest-originated CRs to CMP. Due to delays in the deployment schedule, Qwest conducted the prioritization process vote for IMA 10.0 twice, first in August 2001, and again in October 2001.

d. The second IMA 10.0 prioritization process included five Qwest-originated PID/PAP-related CRs. Qwest classified these CRs as regulatory changes and bypassed the CR ranking vote. CLECs subsequently disputed this classification, objected to the preferential treatment of these Qwest-initiated CRs, and requested that Qwest reallocate resources to implement other prioritized CRs. Qwest proceeded to schedule the

implementation of four of these CRs in IMA 10.0 over CLEC objections.

e. The prioritization for IMA 10.0 was also the first time that the process included the concept of CR packaging options. After the initial prioritization vote had taken place, Qwest IT personnel performed detailed analysis of some of the prioritized CRs, and recommended that certain CRs be implemented together so that Qwest IT would realize cost savings from identified system and functional dependencies.

f. Qwest subsequently informed CLECs of the recommended CR packaging options, and conducted another vote to decide which CR packaging options should be included in the upcoming software release.

g. KPMG recognizes that the prioritization for IMA 10.0, and IMA 11.0, took place when Qwest and CLECs were at impasse over the definition of regulatory change. Qwest conducted CR ranking for IMA 11.0 in February 2002, and included two PID/PAP-related CRs as regulatory changes over CLEC objections. This Commission decided on March 13, 2002 that regulatory changes should exclude PID/PAP-related changes.

h. Due to the test schedule, KPMG was not able to observe the prioritization of a major software release in accordance with the documented process as it existed after the Commission decision on the impasse issue.

i. During testing, KPMG identified that Qwest Systems CMP lacked guidelines for prioritizing CLEC-initiated system CRs, and criteria for developing the scope of an OSS Interface Release Package. KPMG issued Exception 3111.

j. Qwest subsequently updated the draft CMP document to state that Qwest provides CLECs with LOE and release capacity information, in terms of person hours, during the prioritization process. In addition, Qwest developed internal Methods and Procedures (M&Ps) for the prioritization process.

k. KPMG reviewed relevant process documentation, and verified information reflecting Qwest-CLEC discussions in the CMP Redesign work sessions to-date. KPMG observed that Qwest and CLECs had not finalized discussions about the prioritization process before prioritization for IMA Release 10.0 occurred. KPMG was not able to evaluate adherence to the process during this test, and closed Exception 3111 as inconclusive.

l. During testing, HPC formally identified that Qwest did not publish the defects and implementation dates identified during the Interoperability or Certification testing portion of the EDI implementation process, and that Qwest assigned severity rankings to the issues without input from CLECs. In response, Qwest extended production support functions

to include the 30-day testing window prior to the EDI implementation process. This issue was subsequently closed.

2. **Decision**

a. Qwest and the CLECs have jointly prioritized two IMA releases, with the third prioritization to take place in mid-July. The only process difference in these prioritizations was the resolution of the PID/PAP Change request impasse issue. This Commission ordered that these changes not be considered regulatory changes, but rather, beginning with IMA release 12.0, be prioritized with the other CRs. We do not see this limited difference to the process as a reason to hold Qwest to a further demonstration of compliance.

3. **Discussion**

a. Qwest has stated in its comments on its Change Management Process that the fact that PID/PAP CRs were treated as regulatory CRs for releases 10.0 and 11.0 did not affect KPMG's ability to evaluate Qwest's adherence to the prioritization process. The resolution of this issue did not change the prioritization process itself, but simply determined which path an individual CR will take through the process.

b. Qwest asserts that KPMG believed that Qwest did not comply with the CMP processes because Regulatory Changes were not prioritized for IMA Release 10.0, that Qwest did not provide CLECs with total capacity information prior to the

prioritization votes on IMA 10.0, and that Qwest did not participate in the prioritization process for IMA 10.0. Qwest addressed all three of these issues in its responses to this Exception.

c. First, there were Regulatory CRs in both the IMA 10.0 and 11.0 Releases subject to the prioritization process as defined for Regulatory CRs, which included "above the line" treatment -- meaning that Regulatory CRs appeared at the top of the list of CRs to which resources are assigned. In addition, both the IMA 10.0 and 11.0 Releases included ordinary normal CRs that were subjected to the prioritization process as ranked CRs -- meaning that those CRs were ranked below the Regulatory CRs. Thus, KPMG had ample opportunity to review the prioritization process for both types of CRs.

d. The fact that Qwest and the CLECs were at impasse over whether PID/PAP related CRs should be treated as Regulatory CRs or as normal CRs during the prioritization process for the IMA 10.0 and 11.0 Release did not affect KPMG's ability to evaluate Qwest's adherence to the prioritization process. The resolution of this issue did not change the prioritization process itself, but simply determined which path ("above the line" or ranked) an individual CR will take through the process. KPMG has already observed both paths.

e. Second, Qwest provided the CLECs with the total capacity of the IMA 11.0 Release before the packaging. Thus, KPMG was able to observe Qwest's adherence to the process in that respect.

f. Third, Qwest demonstrated that it participated in the prioritization process for IMA 10.0.

g. Qwest asserts these observations demonstrated Qwest's compliance with the process.

h. The Joint CLECs state that Exception 3111 remains closed as "inconclusive." Qwest challenges KPMG's closing of this Exception by stating "the issues KPMG raised did not prevent KPMG from observing Qwest's adherence to the various aspects of the prioritization and packaging process." The Joint CLECs and KPMG disagree with Qwest's assertion. According to the Joint CLECs, other than asserting the opposite of KPMG's belief, Qwest has offered nothing new in its subsequent filing.

i. Therefore, the Joint CLECs state that it is premature for this Commission to approve Qwest's CMP at this time. The Joint CLECs request that the Commission order Qwest to finish the job by allowing KPMG to conclude its testing or retesting before attempting to judge Qwest's redesigned CMP.

j. We agree with Qwest's assertions on this issue. KPMG did observe the prioritization and packaging of two software releases. Because the impasse issue concerning the

treatment of PID/PAP changes had not been resolved, is not enough of a reason to conclude that Qwest did not adhere to the agreed-to process. It was this Commission's decision not to mandate a re-prioritization of release 11.0 including the two "regulatory" CRs in the ranking. Qwest should not be penalized for following through on this Commission's order.

k. The inclusion of PID/PAP CRs in the regular prioritization and packaging processes does not change the fundamental structure of those processes. We find that Qwest has adequately adhered to the CMP prioritization process.

C. Test Criterion 23-1-9: Compliance with Notification Intervals (Systems)

1. KPMG found this criterion, 23-1-9, "unable to determine." This criterion relates to whether Qwest complies with notification intervals and documentation release requirements. This criterion correlates to Exception 3110.

a. During the course of this evaluation, KPMG was not able to verify Qwest's adherence to Systems CMP software release notification intervals and documentation release requirements.

b. The draft CMP document defines software release documentation intervals for the introduction of, as well as changes to, OSS interfaces. For example, for changes to an existing EDI interface, Qwest provides CLECs with draft

technical specifications at least 73 calendar days in advance of scheduled implementation, and final technical specifications at least 45 calendar days in advance. For changes to an existing GUI interface, Qwest provides CLECs with draft release notes at least 28 calendar days in advance, and final release notes and user guide at least 21 calendar days before the scheduled deployment.

c. Qwest uses both e-mail and the Wholesale Web site to distribute notifications and documentation release requirements. KPMG monitored CLEC Notifications during the testing period. Due to test schedule, KPMG was not able to observe Qwest's adherence to the current process of the documentation release requirements for a major software release.

d. During testing, KPMG formally identified that System Event Notifications were improperly formatted for distribution to CLECs. As a result, CLECs were unable to obtain information from these notifications. Qwest subsequently implemented a new process at Wholesale Help Desk (WSHD) to ensure that all notifications include attachments in the Microsoft Word format.

e. In addition, KPMG formally identified that System Event Notifications contained discrepancies related to:

1) Notification date inaccuracies;

2) Inaccurate time-stamps; and

3) Lateness in distribution.

f. Qwest subsequently conducted internal training to ensure that Qwest staff follows the notification intervals set forth in the draft CMP document.

g. Due to the test schedule, KPMG was not able to evaluate Qwest's adherence to the steps that Qwest took to address the above issues, and the subsequent outputs.

h. Further testing activities determined that Qwest did not distribute the mail-out notifications in a timely manner, and did not follow the 48-hour interval for planned outages. KPMG issued Exception 3110.

i. As a result, Qwest implemented a log-in system to ensure that the Notifications Department promptly logs and distributes notifications. KPMG's retesting confirmed that the changes were implemented.

j. KPMG considers the issue specifically relevant to this evaluation criterion resolved, and closed Exception 3110 as inconclusive due to issues identified in 23-7.

k. During testing, HPC formally identified an issue that Qwest provided CLECs with inadequate advance notice regarding changes to its IP addresses for Street Address Guide (SAG) and Feature Availability Matrix (FAM) files. Qwest subsequently updated process documentation to specify that Qwest

would notify CLECs of changes in connectivity requirements a least five days in advance.

l. In addition, HPC formally identified tha Qwest did not address the inaccurate and incomplete informatio in IMA disclosure documents in a timely manner. Qwes implemented changes to the subsequent release documentation.

m. In addition, HPC formally identified i Exception 2003 that Qwest did not follow its established releas notification schedule when implementing IMA releases, and di not provide complete and accurate information in its releas notifications to prepare CLECs for certification an implementation of new releases. Qwest subsequently indicate that it would follow the intervals specified in the draft CM document. Exception 2003 is closed.

2. **Decision**

a. Our decision on this criterion follows th rationale of criterion 23-1-7. The existence of PO-16 and th recent efforts that have been made by the redesign group ar sufficient to find that Qwest had performed adequately in th CLEC notification process.

3. **Discussion**

a. The discussions by the parties on thi criterion and exception are the same as those found unde criterion 23-1-7. (The parties divided their comments b

exception rather than by test criterion; therefore, the discussion and positions may encompass several test criteria.)

D. Test Criterion 23-2-2: The Change Management Process Is in Place and Documented (Product and Process)

1. KPMG found this criterion, 23-2-2, "unable to determine." This criterion relates to whether Qwest has a change management process in place and if that process is documented. This criterion does not correlate to an exception.

a. KPMG found that, due to continuing Qwest-CLEC negotiations in CMP Redesign, the Product/Process CMP is not fully implemented or documented. At the conclusion of the Qwest OSS Evaluation, KPMG observed that Qwest and CLEC continued discussion about relevant issues in CMP Redesign including:

- The process for postponing or stopping a Qwest-initiated Product/Process change; and
- The Exception Process.

b. Qwest will finalize the draft CMP documen after it has reached agreement with CLECs on the remainir issues.

c. In KPMG's professional opinion, the drai CMP document does not include all of the essential componen that constitute a well-formed and complete Product and Proce CMP. Although Qwest and CLECs have made significant progress CMP redesign, the parties have not completed discussions abo

Product and Process CMP, and have not documented all activities within CMP. For example, redesign discussions continue for the definition of a CR Postponement Request and the Exception process. The CMP Redesign Process is scheduled to continue through June 2002.

2. **Decision**

a. As we have stated before, it is our opinion that KPMG's finding of "unable to determine" would have been changed to "satisfied" if KPMG had been given another month or two of testing. The CMP is an ever-changing process, but especially in the last three months, great strides have been made in reaching a plan that benefits both Qwest and the CLECs and their business relationships. Since the conclusion of the test, the redesign group has agreed to language for both the CR Postponement and the Exception Processes. It is our understanding that the only area of discussion left for the redesign group is regarding the language for the CMP voting process. This discussion is scheduled to take place in the next couple weeks, with the final CMP documents set to be presented for approval to the larger CMP community in mid-July. Therefore, we find that Qwest does have a Change Management Process in place and documented.

b. The April 29, 2002, version of the SGAT, however, contains an out-dated Exhibit G. Before filing wi

the FCC, Qwest should replace that exhibit with the most current version of the CMP documents that contains the agree-to language for CR Postponement, the Exception process, and any other consensus language reached since the last filing.

3. **Discussion**

a. Qwest stated in it Comments Demonstrating Satisfaction of the FCC's Section 271 Change Management Evaluation Criteria, filed April 26, 2002, that the governing process for change management is contained in a single document -- the Wholesale CMP document. As discussed in the prior filings, Qwest states that this document contains the agreements reached through extensive collaborative negotiations between the CLEC community and Qwest. Through the redesign process, CLECs have had substantial input into the organization and clarification of change management related materials on the web site.

b. The joint CLEC-Qwest redesign team agreed that the agreements reached through the redesign effort would remain in draft form, subject only to a final review of the document as a whole and changes necessary to ensure that the document reflects a cohesive and integrated whole. However, the fact that a final review will occur in no way detracts from the fact that CLECs and Qwest reached agreement regarding the processes and Qwest has implemented those agreements. Indeed,

Qwest has conducted its wholesale business pursuant to the Wholesale CMP for several months. Moreover, the result of the redesign process is a CMP that goes well beyond what has been done by any other BOC in successful applications for 271 authority.

c. In the redesign process, Qwest and the CLECs identified, discussed, and resolved the most important issues relating to processes to be documented in Qwest's CMP. The redesign team reached agreement in principle regarding all 12 of the more important category "1" issues and on eight of the 10 less significant category "0" issues. The CLECs have described these agreements as vague, high level agreements that will be memorialized at a later time. Contrary to this characterization, detailed proposals have been developed for all of the agreements, except a single issue. This single issue relates to provisions for the exception process, upon which the redesign team has agreed in principle. The team agreed that this issue would not be a controversial issue.

d. Further, the only two issues on which the team did not reach agreement in principle do not relate to language that will be incorporated into the CMP document. Covad Issue #3 relates to how Qwest identifies retail changes that may impact CLECs. The redesign team has discussed this issue at length and reviewed Qwest's documented processes. Indeed, the

Joint CLECs admit in their brief that they believe that Qwest has implemented "adequate processes to ensure timely and adequate notification to wholesale customers of retail changes that impact them as well as to ensure parity between Qwest's retail and wholesale customers." The only other issue, raised by WorldCom, relates to how Qwest will prove that it has implemented the changes it has agreed to make. Neither of these issues has any impact on the sufficiency of Qwest's CMP document.

e. In its Draft Final Report, KPMG listed "unable to determine" as the result for its evaluation of whether Qwest's change management process is in place and documented, stating that the Wholesale CMP does not include all elements KPMG believes are essential. The bottom line is that the CLECs enjoy substantial benefits from Qwest's implementation of the redesigned CMP. The fact that minor changes may be made to the CMP through the final review process by the redesign team does not affect Qwest's compliance with the implemented process.

f. The Joint CLECs conclude in their comments, filed May 3, 2002, that in its zeal to rush to the FCC, Qwest would like this Commission to brush aside the final steps necessary to finishing the task of producing a single document with the real core provisions of Qwest's CMP. They state that this is astounding since it is likely that the task of finishing

the language and placing it in the CMP document will be concluded no later that sometime in June 2002. Considering the FCC is not particularly interested in draft, the CLECs assert, it is hard to imagine how one could conclude that Qwest meets the FCC criteria based upon such a draft.

g. The Joint CLECs state that this Commission should simply demand that Qwest finish the job and then submit the CMP documents for review.

h. Again, because of the time lapse between the comments and the Commission's decision meeting on CMP, it is our opinion that the CLECs' concerns have been addressed. The time requested by the CLECs for Qwest to "finish the job" has passed, and we find that Qwest has indeed "finished the job" for § 271 purposes. We realize that the CMP document is dynamic in its very nature. Modifications likely will be made for some time to come. However, the CMP document that currently is located on Qwest's CMP web site contains all the necessary core elements for us to find that the Change Management Process is in place and documented.

E. Test Criteria 23-2-7, 23-2-8, and 23-2-9: Tracking notification intervals and prioritization of Qwest Initiated Product and Process Changes (Product and Process)

1. This group of product and process criteria was found by KPMG to be "unable to determine." These criteria relate to whether Qwest has fully implemented Product and Process CMP including the

tracking of information such as descriptions of proposed changes, key notification dates, and changes' status. In addition, test criterion 23-2-8, specifically, relates to the categorization and prioritization of Qwest initiated Product and Process change requests. These criteria correlate to Exception 3094.

a. KPMG found that Qwest had not fully implemented Product/Process CMP at the conclusion of the Qwest OSS Evaluation. KPMG was unable to confirm that Qwest has procedures and systems to track all proposed Product/Process changes.

b. Qwest uses a Microsoft Access database to track CLEC-initiated Product/Process CRs and Qwest-initiated Level 4 changes. The interactive status report generated from this database is available on the CMP web site, and included in the monthly CMP distribution package.

c. Qwest uses a web-based Customer Notification Letter Archive (CNLA), available at the following web site: http://www.qwest.com/wholesale/notices/cnla/, for CLECs to search and retrieve past notification. Although this mechanism provides external reporting for Qwest notifications, it does not serve as an internal tracking system for proposed Product/Process changes.

d. In addition, KPMG states the Product/Process CMP defines the criteria for categorizing Qwest-initiated

changes on the basis of perceived impact to CLEC business operations. Qwest had not fully implemented Product/Process CMP at the conclusion of the Qwest OSS Evaluation. KPMG, therefore, was unable to observe the complete implementation of this process.

e. The draft CMP document describes the initiation, evaluation, and notification of Qwest and CLEC-initiated Product/Process CRs. The document defines five categories of Qwest-initiated Product/Process changes (levels 0-4), with each higher level representing increasing impact to CLEC business operations. At the conclusion of the Qwest OSS Evaluation, Qwest had just begun to categorize all of its Product/Process changes in accordance with the documented process. KPMG, therefore, was unable to observe sufficient evidence to verify that the process had been fully implemented.

f. The Product/Process CMP employs a different process flow to accommodate changes that either Qwest or a CLEC requests be implemented on an expedited basis. The Exception Process remains subject to ongoing Qwest-CLEC negotiation in CMP Redesign.

g. During testing, KPMG observed that Qwest implemented a desired process change over CLEC objections. KPMG issued Exception 3094. In response to Exception 3094, Qwest

indicated that Qwest and CLECs disagreed about the process governing Qwest-initiated Product/Process changes.

h. In April 2002, Qwest and CLECs agreed to the process for Qwest-initiated Product/Process changes. During retesting, Qwest clarified that not all Qwest-initiated changes issued via CMP notifications in April and May 2002 could be implemented under the new process. Due to a limited sample size and representation of only two categories of Qwest initiated P/P changes during the retest period, KPMG was unable to verify that the process had been fully implemented, and closed Exception 3094 unresolved.

i. Finally, because Qwest had not fully implemented the Product/Process CMP, KPMG was unable to observe adherence to notification intervals and documentation release requirements for Qwest-initiated changes.

j. The draft CMP document defines five categories of Qwest-initiated changes (levels 0-4), with each higher level representing increasing impact to CLEC business operations. The document also specifies the comment and implementation intervals for each of the five categories. However, KPMG was not able to validate compliance with the documented process.

1. **Decision**

a. As part of the CPAP decision on remand issues, Decision No. C02-399, the Commission ordered Qwest to file the Qwest initiated Product and Process change request process with this Commission for inclusion in the CPAP. Qwest has done this. At the June 27, 2002, Commissioners' Weekly Meeting, Staff will present proposed penalties associated with the five levels of changes contained in this process. Once this proposal has been reviewed by the Commission, it will be sent out for comment. In relatively short order, these Qwest initiated Product and Process changes and their associated time lines and milestones, will be part of the CPAP. This should prove to be an additional incentive, beyond working in good faith, for Qwest to meet the related due dates and for the Commission to analyze any unlikely pattern of poor performance.

2. **Discussion**

a. Qwest maintains that it is not necessary for it to have product and process in its CMP to meet the FCC requirements for CMP. Product and Process does not affect the Commission's evaluation of CMP for 271 purposes.

b. However, Qwest asserts, the initial confusion surrounding this process that gave rise to this Exception 3094 has been eliminated by the detailed agreement reached through the redesigned process. Because the new

procedure applies to all Qwest initiated changes, there should be no future confusion relating to the appropriate process that applies to a particular change.

c. The Joint CLECs commented on Exception 3094 by stating that it was opened on December 12, 2001 and stated that Qwest did not adhere to its established change management process for notifying CLECs about a proposed change. It allowed input from all interested parties. On April 4, 2002, KPMG recommended that this exception be closed unresolved and stated:

> KPMG Consulting recognizes that Qwest and CLECs have yet to agree on key components of a comprehensive Product/Process CMP. Qwest implemented an *ad hoc* process to manage Qwest-initiated Product/Process changes as of April 1, 2002. Although CLECs and Qwest have reached an "agreement in principle" for this interim process, it is KPMG Consulting's understanding that the referenced process remains subject to further development, modifications, and negotiations in CMP Redesign. KPMG Consulting is not able to conduct a thorough evaluation until the prescribed process is formalized, the Redesign sessions are complete, and the process is fully implemented and confirmed. However, the current schedule is for Redesign meetings to continue until June, 2002.

d. Qwest has requested that KPMG conduct no further testing. Since the *ad hoc* process is not final and third-party testing is concluding, KPMG was unable to conduct retesting to ensure that a complete and functioning Product/Process CMP was in place.

e. In short, the Joint CLECs conclude this exception reveals a problem with Qwest's current CMP. The Joint

CLECs maintain that this Commission and the FCC must find Qwest fails to adhere to its CMP process and that the process is, as yet, not adequate to meet the FCC's five criteria required for approval.

f. Although we do not agree with Qwest's assertion that its CMP is complete without Product and Process CMP, the passage of time has allowed the CMP redesign group to complete a Qwest Initiated Product and Process change request process. This process was implemented the beginning of April, with minor modifications occurring mid-April. All Qwest Product and Process notifications mail-out to CLECs as of mid-May are categorized in the levels defined in CMP section 5.4. This is the same process that will shortly become part of our CPAP. This is sufficient for § 271 purposes.

F. Test Criterion 24.6-1-8: Functional Test Environment

1. KPMG found this criterion, 24.6-1-8, "not satisfied." This criterion relates to whether Qwest has a functional test environment available to customers for all supported interfaces. This criterion correlates to Exceptions 3077 and 3095.

a. KPMG found in its evaluation of Qwest's test environment that a functional test environment is not made available to customers for all supported interfaces.

b. Before August 2001, Qwest supported only its Interoperability (Interop) test environment for CLECs testing an EDI interface. KPMG identified Interop deficiencies in Exception 3029:

- Interop requires CLECs to use valid production data in their test cases;
- Responses to the test cases are generated manually as opposed to generating production system-like responses; and
- Interop has no flow-through capability as does the Production Environment.

c. Qwest responded that it was devoting its testing resources to developing the Stand Alone Test Environment (SATE), and that no further enhancements would be made to Interop. Qwest revised the *EDI Implementation Guidelines for IMA*, so that it now provides more detailed information on the pros and cons of using Interop vs. SATE, or a combination of both, environments. Exception 3029 is closed.

d. In August 2001, Qwest introduced SATE as a result of a CR submitted through Qwest's CMP by a CLEC. SATE is separate from Qwest's production systems.

e. KPMG reviewed SATE documentation and identified that SATE transaction responses are manually generated, and that the environment does not support flow-through transactions. As a result, KPMG issued Exception 3077.

f. In its response, Qwest requested that KPMG close Exception 3077 without waiting for SATE enhancements to be implemented, and subsequent retest verification activities to be completed. Exception 3077 is closed/unresolved.

g. KPMG formally identified that Qwest did not supply CLECs with sample EDI transactions for the various types of test cases available.

h. Qwest released the *Populated X12 Mapping Examples - IMA EDI 9.0 Release* document through the CMP Release Notification process. KPMG verified that CLECs were supplied with sample EDI transactions, and the issue was resolved.

i. KPMG identified problems related to adding functionality to SATE in Exception 3095. The issues raised included the process for adding new IMA products for testing as well as adding existing products not currently supported in SATE.

j. In its response, Qwest requested that KPMG close Exception 3095 without waiting for SATE enhancements to be implemented, and subsequent retest verification activities to be completed. Exception 3095 was closed/unresolved.

k. The P-CLEC's testing for the Qwest OSS Evaluation was limited to Interop. During its Interop testing experience, the P-CLEC identified certain issues with the Interoperability Testing environment, including:

- Adequate resources were not available for reviewing and clarifying test scenario templates; and
- Discrepancies between actual and expected responses.

These issues were subsequently resolved.

1. Qwest does not require carrier-to-carrier testing for IMA GUI.

2. **Decision**

a. We require Qwest to include PO-19, as currently found in Exhibit B to the SGAT, in the CPAP with an associated penalty of $50,000 for the 95 percent benchmark miss. For the Colorado Commission to sign-off on SATE, this current definition must be added before Qwest's files with the FCC. At such time as the Long-term PID Administration team either agrees on a newly defined PO-19a and b, or if through that process impasse is reached, Qwest shall file the new definition with this Commission. At that time, the penalty amount will be reassessed based on the level of disaggregation of PO-19a and the new PO-19b.

b. The language to be placed in the CPAP prior to the FCC filing, is as follows:

> PO-19 Stand Alone Test Environment (SATE) Accuracy
>
> Failure to meet the 95 percent standard to accurately provide production-like tests to CLECs for testing both new releases and between releases in the SATE environment shall result in a $50,000 payment by Qwest to the Special Fund.

3. **Discussion**

a. Qwest states that the issues raised by KPMG about "real world testing scenarios" should be largely addressed by Qwest's planned implementation of flow-through capability in SATE. This should be fully implemented throughout Qwest's region by mid-May.

b. With this flow through, SATE clearly will provide the same key functions as the production environment.

c. Qwest built SATE to support every resale product and UNE offering for which CLECs had built IMA-EDI interfaces. Certain other products therefore were not automatically included in SATE.

d. Through the CMP, Qwest has allowed CLECs to prioritize products that they want in the next SATE release. CLECs only choose to include two new products for implementation in SATE 11.0 release. In addition, both Qwest and CLECs are free to submit CRs to add other products or capabilities to SATE.

e. Qwest asserts commercial data also demonstrate that SATE is adequate to permit CLECs to test EDI interfaces and achieve production status.

f. The Joint CLECs, through the affidavit of Tim Connolly, AT&T, contend that SATE is significantly deficient when compared to the test environment that Verizon developed to

gain § 271 approval. Mr. Connolly states that Qwest implemented an enhancement to SATE because of its limitations regarding mirroring of post-order production transactions (e.g., POCs, order rejections, and order completions). The Virtual Interconnect Center Knowledge Indicator (VICKI) was implemented around the end of January 2002. VICKI still fails in key areas.

g. According to Mr. Connolly, SATE also fails because Qwest does not freeze both the test and implementation versions such that changes cannot be made to one without making the same changes to the other. Therefore, the test releases may differ from the release that Qwest implements.

h. The CLECs contend that SATE is a work in progress, but not yet ready to pass the FCC's criteria.

i. Qwest has made great strides in the adequacy of its SATE in the past year. Before the release of SATE, CLECs' only option for testing was the Interop environment. As stated in KPMG's evaluation, Interop is limited in flow-through capability as well as the need for manual intervention. With the addition to SATE of the VICKI and the flow-through capability in mid-May, Qwest has addressed many of KPMG's concerns enumerated in Exception 3077.

j. This is the closest call in our § 271 record. The SATE the Qwest has recently developed appears compliant, but there is not sufficient evidence conclusively to

determine whether it is or not. The addition of PO-19 into the CPAP bootstraps our record to illustrate Qwest's commitment to devise a functional SATE. PO-19 and the attendant penalty for failing to meet the benchmark, illustrate a commitment to the FCC's criteria that Qwest have a Stand Alone Test Environment that mirrors production. The FCC, with the further passage of time, should have more of a record on which to base its ultimate record on the presence of an adequate SATE. We are comfortable with this recommendation also because of our staff's intimate knowledge of CMP and its remarkable development over these past months. Because the SATE would be the only § 271 issue to our minds that might portend delay, we are comfortable with the addition of PO-19 to the CPAP as a bridge to Qwest having a compliant SATE.

G. Test Criterion 24.6-2-9: MEDIACC EB-TA

1. KPMG found this criterion, 24.6-2-9, "not satisfied." This criterion relates to whether carrier-to-carrier test environments are available and segregated from Qwest's production and development environments. This criterion correlates to Exception 3109.

   a. KPMG has found in its evaluation that Qwest's carrier-to-carrier testing environment used by CLECs to develop their MEDIACC EB-TA (Mediated Access System for

Electronic Bonding Trouble Administration) interface is not segregated from the MEDIACC EB-TA production environment.

b. The carrier-to-carrier test environment offered by Qwest is comprised of the MEDIACC, WFA, and LMOS systems. Test scenarios submitted for MEDIACC EB-TA testing are first processed by the MEDIACC portion of the test environment. Depending on the circuit type, either designed or non-designed services, scenarios are then processed by the WFA or LMOS system.

c. The MEDIACC portion of the test environment is run on a separate server to which the CLEC must establish a secure connection to conduct carrier-to-carrier testing. In addition, Qwest uses a separate server for WFA to process designed service test scenarios during the end-to-end testing phase with CLECs. The end-to-end testing phase is described in the *System Test Plan for Electronic Bonded Trouble Administration* document.

d. Non-designed service test scenarios, however, are processed by the LMOS production mainframe. Qwest uses a system flag to prevent test scenarios from being dispatched during the non-designed service testing phase. Non-designed circuits submitted through the LMOS production system are monitored by a Qwest assigned Tester so that test orders are

not dispatched, thus preventing potential adverse impact on Qwest operations and customers.

e. KPMG raised this issue in Exception 3109, which describes the limitations and potential impacts of testing non-designed services in the LMOS production mainframe during the end-to-end testing phase. KPMG also identified that Qwest's documentation for the architecture of the ESTA test environment was inadequate.

f. KPMG investigated the commercial experience of commercial CLECs to assess the impact of the preproduction component on their testing efforts. KPMG found that, due to the necessary manual intervention of the Qwest Tester, two non-designed services test trouble reports submitted by a CLEC passed through to the Qwest Production Screeners. In its response, Qwest advised that, as no immediate changes were planned for its M&R test environment, KPMG should close Exception 3109 as closed/unresolved.

g. CLECs are not required to develop an interface to CEMR; therefore, CEMR does not require a carrier-to-carrier testing environment.

2. **Decision**

a. We don't believe anything needs to be done for the resolution of this criterion. The CLECs did not address

it in their written comments and it was not a major topic of discussion at the *en banc* workshop on the BOC OSS test.

b. We agree with Qwest that there currently seems to be no problem with the LMOS used for testing, being the same LMOS that is used for actual production. The issue cited by KPMG in its findings seems to be an isolated issue that was actually stopped in the Qwest Production Screeners and caused no customer or CLEC harm.

3. **Discussion**

a. Qwest states that the FCC has never required that BOCs provide CLECs with an electronic interface for MOR activities for 271 approval. Therefore, the Commission need not consider this Exception for 271 evaluation.

b. Nevertheless, according to Qwest, the interface, based on ANSI standards, was developed for IMC trouble tickets in 1996 and began supporting CLECs in 1997. To date, four CLECs have successfully built and tested to Qwest's EB-TA interface. With the exception of this sole criterion, KPMG found Qwest's EB-TA to be satisfactory.

c. In KPMG's view, the test environment for all components of the testing process should be physically separate from the production environment, with access provided to a duplicate of the LMOS production database (used for non-design services).

d. In Qwest's experience, the fact that EB-TA testing uses the LMOS production applications is not detrimental or limiting. In Qwest's view, it is advantageous to the CLEC, because it permits the full functionality of EB-TA to be tested.

e. As stated above, the CLECs did not comment on this issue, except to the extent that besides WorldCom who uses both CEMR and EB-TA, it seems no CLECs on record are using the EB-TA interface to process maintenance and repair orders. AT&T stated that it phones in trouble reports and doesn't go through an electronic interface. WorldCom did state that an application-to-application interface such as EB-TA means MCI/WorldCom application to Qwest application over EB for trouble tickets, or over EDI for LSRs, provides that flexibility for the CLECs' systems and processes to be much more integrated and seamless. However, WorldCom did not present any problems with commercial experience to the Commission.

f. Based on the limited CLEC comments and the isolated incident referenced in the KPMG report, we find that Qwest need not make any change to its MEDIACC EB-TA for § 271 compliance.

H. Overall Commission Finding on CMP

1. Decision

a. The Commission finds that Qwest has a compliant Change Management Process for § 271 approval. Based

on our evaluation of the above ROC OSS test criteria that were found to be "unable to determine" or "not satisfied" by KPMG, and our analysis of the FCC's change management criteria, Qwest has met the requirements of a CMP: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in the design and continued operation of the change management process; (3) that the change management plan 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 RBOC makes available for the purpose of building an electronic gateway.

b. In addition, we find Qwest has demonstrated a "pattern of compliance" with its own change management plan and it has provided adequate technical assistance to CLECs in using the RBOC's OSS.

X. COMMISSION DECISION ON SECTION 271 COMPLIANCE

a. On November 16, 1999, U S WEST Communications, Inc. (now Qwest Corporation) filed in Colorado its Notice of Intent to File with the FCC Pursuant to § 271 of the Telecommunications Act of 1996. This filing prompted activity on many fronts and in many arenas. The Commission's

decision in this docket is the culmination of these myriad efforts.

b. The Qwest Regional Oversight Committee convened a region-wide collaborative operational support system test done by KPMG, Hewlett-Packard, and Liberty Consulting. In Docket No. 97I-198T this Commission hosted an extensive series of collaborative workshops to finalize a Statement of Generally Available Terms and Conditions.[30] In Docket No. 01I-041T, this Commission engaged Special Master Professor Phil Weiser to draft a Performance Assurance Plan and, after extensive proceedings, adopted the Colorado Performance Assurance Plan.[31] The Colorado Commission completed a wholesale pricing proceeding, Docket No. 99A-577T. Qwest convened, and Colorado Commission staff actively participated in, a Change Management collaborative.

c. In all, this has been an enormous undertaking. We now find ourselves at a point where Qwest believes it has met the criteria of 47 U.S.C. § 271 and is ready to file an application at the Federal Communications

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[30] The Commission relies upon, and adopts, the recommendations made by the hearing commissioner and the findings of compliance contained in the decisions of the hearing commissioner in Docket No. 97I-198T. The Commission also adopts and relies upon the Staff reports in Docket No. 97I-198T.

[31] The Commission relies upon, and adopts to the extent necessary and as consistent with prior Commission decisions, the recommendations of Professor Weiser and of the hearing commissioner in Docket No. 01I-041T.

Commission.[32] It therefore becomes this Commission's job to decide what its recommendation will be under 47 U.S.C. § 271(d)(2)(B).

d. The crucial paragraph as to the FCC's analysis that now appears, we believe, in every § 271 application is paragraph 46 of the *Bell Atlantic New York Order*:[33]

> Finally, we note that a determination of whether the statutory standard is met is ultimately a judgment we must make based on our expertise in promoting competition in local markets and in telecommunications regulation generally. We have not established, nor do we believe it appropriate to establish, specific objective criteria for what constitutes "substantially the same time and manner" or a "meaningful opportunity to compete." We look at each application on a case-by-case basis and consider the totality of the circumstances, including the origin and quality of the information before us, to determine whether the nondiscrimination requirements of the Act are met. Whether this legal standard is met can only be decided based on an analysis of specific facts and circumstances.

e. The standards applied by the FCC then are extraordinarily broad. The contours of when a Regional Bell Operating Company passes, and when it fails, a checklist item are indistinct and sometimes appear to change from application

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[32] Qwest filed its § 271 application with the Federal Communications Commission on June 13, 2002.

[33] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999) (*Bell Atlantic New York Order*).

to application. In all, it makes for a quite frustrating task for state commissions to say whether and when Qwest has done enough to earn a passing grade.

f. Criticism of "totality of the circumstances" test is well known. Totality of circumstance analyses admits for very little law and a great deal of guessing about the preference of the ultimate tribunal - here the FCC. Indeed, in the public interest orders pertaining to Staff Report Volume VII, the hearing commissioner more than once noted that a standard in which everything is relevant and nothing is dispositive and in which no relative weight of the factors is known beforehand makes principled decisionmaking quite difficult. We agree. Nonetheless, it is our task to make that judgment using the guidance provided.

g. The difficulty of this task is exacerbated by the enormity of this record. The complexity of the § 271 process makes it nearly impossible to comprehend its various aspects, much less to weigh the relative weights and importance of the various aspects. OSS is important. Pricing is important. Performance assurance is important. CMP is important. Suffice it to say our record has treated all these and other issues as important. We have fleshed out a record and made decisions reflecting what we understand to be the FCC's requirements.

h. It is, ultimately, the task of the Colorado Commission to use our best effort in evaluating the record and in making a prediction at what the FCC would do with the record we have assembled for it. In doing so, the Commission has looked at all the proceedings that we have had to investigate whether Qwest complies with the 14-point checklist and other requirements. We have compiled a comprehensive SGAT through six Commission Staff reports, 12 hearing commissioner orders, and one Commission decision. We have participated exhaustively in the ROC OSS test. Following a fully-litigated costing and pricing proceeding, we have determined new Total Element Long-Run Incremental Cost-compliant rates. We have considered the public interest-related factors and devised the rigorous and substantial Colorado Performance Assurance Plan, approved by the Commission and accepted by Qwest. We have done the analysis of Qwest's compliance with Track A and § 272.

i. On the amassed record and based on this work, and provided Qwest makes the filings and provides the assurances discussed in this decision, this Commission will recommend that the FCC grant the Qwest application for provision of in-region, inter-LATA services in Colorado.

j. We will make a positive recommendation because we find that Qwest has met the statutory criteria. We further support Qwest's application on the basis of the

diminishing returns the consumers will see from prolonging this process. Advocacy that makes the best the enemy of the good that regards the OSS test as an end in itself; and obscures consumers' interests behind would-be competitors' interests should not be indulged.

k. We finally return to the fact that long distance entry will be in the public interest. We cannot quantify, or even identify, exactly the consumer welfare benefits to be had from Qwest long distance entry. Nonetheless, we are convinced, and agree with the hearing commissioner's conclusion in the public interest order, that there are uncontrovertible consumer welfare gains to be had from Qwest's long distance entry. There is no longer adequate reason to delay these benefits to Colorado consumers.

l. Furthermore, we believe that Competitive Local Exchange Carriers which are genuinely interested in competing will be better protected from, and compensated for, discriminatory behavior by Qwest under the Colorado Performance Assurance Plan. That Plan, which attempts to award a measure of compensatory damage for CLECs when Qwest breaches its contractual obligations to them, will become effective upon FCC approval of Qwest's § 271 application.

m. Thus, the Colorado Commission finds that the 14-point checklist has been met; the public interest test has

been met; the separate affiliate requirement of § 272 is met; and Track A of § 271 is met. In sum, this Commission will recommend to the FCC that Qwest's application under § 271 of the Telecommunications Act of 1996 be approved.

XI. A GENTLE REMINDER

a. This docket is not adjudicatory, but rather is a special master/rulemaking hybrid. See Procedural Order, Decision No. R00-612-I at pages 11-15. The ultimate authority over Qwest's application lies with the FCC, not this Commission. This Order does not have the traditional effect of compelling Qwest to undertake the ordered action. Rather, this order is hortatory. If Qwest provides the assurances and makes the changes to the SGAT, including the CPAP, recommended by this decision, then the Commission will recommend to the FCC that it grant Qwest's § 271 application.

b. Upon Qwest's filing of appropriate modifications to the SGAT, including exhibits, and requested assurances, the Commission will find, through a subsequent order, that Qwest has complied with the statutory requirements and that the Commission recommends FCC approval of Qwest's § 271 application.

c. Because this is neither a final order of the Commission nor a proceeding under the Commission's organic

statute or the Colorado Administrative Procedure Act, see C.R.S. §§ 40-2-101, et seq., and §§ 24-4-101, et seq., participants in this docket do not have a right to file exceptions to this order or to ask for rehearing, reargument, or reconsideration. Likewise, this decision will not ripen into, or otherwise become, a final decision of the Commission subject to judicial review under the Commission's organic statute or Colorado law.

d. Participants will be afforded an opportunity to argue their respective positions concerning Qwest's compliance with the requirements of § 271 before the Federal Communications Commission. Any party to the FCC proceeding who is dissatisfied with the FCC's decision regarding Qwest's § 271 application can take appropriate action to seek judicial review of that decision.

XII. ORDER

A. The Commission Orders That:

1. If Qwest Communications files with the Commission the amended SGAT language, the amended exhibits (including the Colorado Performance Assurance Plan), and the assurances as set forth in the foregoing discussion, the Colorado Commission will recommend to the Federal Communications Commission that it grant Qwest's § 271 application for Colorado.

2. If it wishes the Commission to make a favorable recommendation to the Federal Communications Commission, Qwest shall make a compliance filing with the Commission as set forth in the discussion, above. The compliance filing must be made forthwith, but in no event later than Friday, June 28, 2002.

3. Upon receipt of the compliance filing, the Commission will determine whether the compliance filing is sufficient and, if it is sufficient, will make an unqualified recommendation of approval to the Federal Communications Commission.

4. Touch America's Petition to Intervene is granted.

5. This Order is effective immediately on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING June 13, 2002.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER POLLY PAGE
ABSENT.

Wyoming Transcript of Proceeding, June 13, 2002 (excerpt).

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF WYOMING

IN THE MATTER OF THE APPLICATION OF QWEST CORPORATION REGARDING RELIEF UNDER SECTION 271 OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996, WYOMING'S PARTICIPATION IN A MULTI-STATE SECTION 271 PROCESS, AND APPROVAL OF ITS STATEMENT OF GENERALLY AVAILABLE TERMS

DOCKET NO. 70000-TA-00-599 (RECORD NO. 5924)

TRANSCRIPT OF HEARING PROCEEDINGS

PURSUANT TO NOTICE duly given to all parties in interest, this matter came on for hearing on the 13th day of June, 2002, at the hour of 9:00 a.m., in the Commission Hearing Room, 2515 Warren Avenue, Suite 300, Cheyenne, Wyoming, before the Public Service Commission, Commissioner Kristin Lee presiding, with Chairman Steve Ellenbecker and Deputy Chairman Steve Furtney also in attendance. Also present were Stephen G. Oxley, Secretary and Chief Counsel, and Michael Korber, Technical Advisor to the Commission.

reflect any kind of analysis of what transactions are really being run in the real world?

A.(KPMG - MR. WEEKS) Yes. We made an attempt to have the mix of transactions reflect what we believed to be an appropriate mix of the transactions in the real world.

Q. (QWEST - MR. CRAIN) Thank you. Moving on, then, to the next test, the M&R end-to-end trouble report processing, 18-6-1 and 18-7-1. The first relates to closeout codes and the second relates to the accuracy of repair. Can you explain why you didn't use a parity benchmark or a parity standard for this test?

A. Yes. I attempted to explain this earlier in my primary testimony. The nature of this test is looking for method and process MMP adherence. And we were attempting to determine whether or not Qwest followed the process that they had articulated as well as whether or not the values, so to speak, that were reported for certain key elements were accurately recorded.

Q. And what you're watching is the same people doing the same tasks on the same type of equipment for both retail and for UNEs or resale.

A. That's correct.

Q. And it's essentially a parity by design process?

A. That's a label that is attached to it, yes.

Q. Okay. Am I right, then, that there's no implication in either one of these criteria that Qwest is providing nondiscriminatory treatment between retail and UNEs of resale?

A. The test that we were conducting here tested whether or not the process was being followed. We did not test specifically to see whether there might be bias between retail and wholesale, but we saw nothing in the design of the process itself or in the execution of the process as we observed it that would suggest there is any bias one way or the other.

Q. Now, the second criteria, 18-7-1, relating to accuracy of repairs, rather than using a parity benchmark, KPMG set a 95 percent benchmark; isn't that correct?

A. Yes, we did.

Q. Can you tell me what level Qwest ultimately achieved?

A. I'll have to refer to the report. I don't recall off the top of my head. Give me a moment.

Q. Mine is on page 366, somewhere in there.

A. I'm on page -- 18-7-1 is on page -- I got there. 355. 92 percent.

Q. Okay. So even under KPMG's analysis, Qwest achieved a 92 percent level.

A. Of the 259 troubles that we submitted, 239 were successfully repaired.

Q. And that was a difference of opinion regarding certain other ones whether or not they were accurately repaired.

A. That is correct.

Q. Thank you. Moving on, then, to the final two not satisfied criteria. Both of these are relating to test environments. The first, 24.6-1-8, relates to SATE, the stand-alone test environment for preorder and order. I think you just testified that it might have a ways to go. Was that statement based upon your evaluation of the test environment as it existed at the time you stopped testing on that?

A. Yes, the closed/unresolveds on 3077 and 3095.

Q. And it doesn't take into consideration any improvement or newly implemented functionalities that Qwest might have made since then.

A. No. There have been enhancements in areas of Qwest after we stopped testing and they would not be reflected in the report and would not be in my testimony.

Q. And thank you. I'll move on to the next one, then. The test environment for EB-TA, can you -- I think you explained EB-TA is a computer-to-computer interface for repair. And it is also -- it's an alternative to

NightFire letter to Jeff Thompson, June 17, 2002

NightFire
Igniting the Bandwidth Explosion™

Jeff Thompson
Director, Wholesale IT
Qwest Communications
1005 17th Street
Denver, CO 80202

Date: June 27th, 2002

Re: IMA testing at Qwest

Mr. Thompson:

This letter confirms that NightFire Software has successfully tested in Qwest's Stand Alone Test Environment (SATE) and production systems on behalf of at least 3 Competitive Local Exchange Carriers (CLECs). NightFire has used SATE to test numerous pre-order and order transactions and has found that when a product is supported in SATE as well as in production, SATE mirrors the production environment. SATE has improved NightFire's ability to maintain and manage EDI interfaces into Qwest. These interfaces connect Qwest to its CLEC trading partners and allow CLECs to have fully automated interfaces requiring little to no manual intervention.

Utilizing Qwest's SATE environment, NightFire has tested the last two major IMA releases (IMA 8.0 and 9.0) and will continue using it for future IMA releases to facilitate the testing of any new products, protocol, and business rule changes. NightFire has tested the following Qwest products in SATE:

- Resale POTS
- Unbundled Loop
- Number Portability
- Loop with Number Portability
- Directory Listings Only (Resale)
- Unbundled Distribution Loop (Sub-loop)
- Sub-loop with Number Portability
- Line Sharing
- UNE-P POTS

The SATE environment has allowed NightFire to test IMA releases and verify the functionality of the Qwest interface and NightFire's software prior to taking manual customer's into production. NightFire has worked very closely with Qwest over the past year to define and improve the functionality of the SATE environment so that the needs of CLECs and vendors like NightFire are met. NightFire Software has provided a variety of CLEC customers and other Communication Service Providers with national LSR interfaces since 1998.

We hope this information is helpful. NightFire would be willing to discuss this information in more detail with the FCC, as needed.

Respectfully,

Venkatesh Swaminathan
Founder, Executive Vice President, and Chief Strategist

Allegiance letter to Jeff Thompson, June 18, 2002



allegiancetelecom, inc.

[redacted]

Jeff Thompson - Director IT
Qwest Communications, Inc.
1005 17th Street
Denver, CO. 80202

Jeff,

Allegiance has used the Qwest Testing environment on four different occasions in the past 15 months. I am the primary testing person who has conducted all those tests from the initial implementation forward to today.

The evolution of that testing process has to me been a pleasure to watch and be a part of. The introduction of SATE has greatly reduced the amount of time spent in every aspect of testing with Qwest and has made, what initially seemed like a huge headache, into really a pleasure to test with. The results are always consistent. Whether it be in the data returned, the timeframe for responses or the level of assistance I have received from my testing team, all have exceeded my expectations.

Allegiance is a Facilities based provider that primarily does RESTYP A, B, and C orders (Unbundled Loops, Loop Service with Number Port, and Local Number Port). I am also a member of the SATE users groups where I have submitted several CR's for SATE enhancements that have been completed in a timely manner. Allegiance has also used the additional data request process to add values to the SATE environment with very little difficulty. If you have any additional questions about our testing experience with Qwest please feel free to contact me.

Thanks,

Ian J. Coleman

Ian J. Coleman
IS - Gateway Development
Allegiance Telecom
(469) 259 4361