

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Qwest Corporation, filing its notice of intention to file its Section 271(c) application with the FCC and request for the Commission to verify compliance with Section 271(c). ) Application No. C-1830 ) ) ORDER APPROVING QWEST'S 271 APPLICATION AND ) RECOMMENDING APPROVAL TO ) THE FEDERAL COMMUNICATIONS ) COMMISSION ) ) Entered: June 12, 2002

Appearances:

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BY THE COMMISSION:

1. On June 3, 2002, the Nebraska Public Service Commission held its final Oral Argument in Application No. C-1830, with appearances as shown above. What follows, is a summation of that proceeding, as well as a review of Commission proceedings in this docket.

## O P I N I O N     A N D     F I N D I N G S

## THE OPERATIONAL SUPPORT SYSTEMS (OSS) TEST

2. Based on the record before us, the Commission finds that Qwest Corporation (formerly US West Communications, Inc.) provides competitive local exchange carriers (CLECs) with access

to its systems, databases and personnel -- collectively referred to as "OSS" -- on a nondiscriminatory basis and in accordance with Federal Communications Commission (FCC) rules. See New York 271 Order, 15 FCC Rcd at 3990 (84); Local Competition Order, 11 FCC Rcd. at 15683 (366). For OSS functions that are analogous to those that Qwest provides to itself, Qwest offers CLECs access that enables them to perform those functions in "substantially the same time and manner" as Qwest. See Georgia/Louisiana 271 Order at App. D-13, 27. For those OSS functions that have no retail analogue, Qwest offers CLECs access "sufficient to allow an efficient competitor a meaningful opportunity to compete." Id. at App. D-13, 28.

3. Qwest provides CLECs with access to its OSS so that CLECs can formulate and place orders for network elements or resale services, install service to their customers, order maintenance and repair work, and bill customers. See, generally, Georgia/Louisiana 271 Order at App. D-12, 25. Qwest also provides technical assistance to CLECs that use these functions.

4. The FCC has held that "[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage." Georgia/Louisiana 271 Order at App. D-12, 31. The FCC further has stated that it "looks at the totality of the circumstances and generally does not view individual performance disparities, particularly if they are isolated and slight, as dispositive of [checklist compliance]." Id. Qwest is providing CLECs with nondiscriminatory access to its OSS at commercial volumes, and in doing so, has met or exceeded virtually all OSS-related performance indicator definitions (PIDs) in each of the past four months in Nebraska. See Nebraska Commercial Performance Data, available at:

[http://www.qwest.com/wholesale/downloads/2002/020517/NE\\_271\\_May01-Apr02\\_Exhibit\\_ROC\\_PID-Final.pdf](http://www.qwest.com/wholesale/downloads/2002/020517/NE_271_May01-Apr02_Exhibit_ROC_PID-Final.pdf). In some cases, Qwest has met or exceeded these PIDs for longer periods. See Id.

5. Qwest's overall commercial performance indicates that its OSS satisfies Section 271's requirements. On the few occasions when Qwest has missed a PID, that miss is explainable, and thus, does not reflect a pattern of poor performance in any one area. Id.

6. To support its commercial performance results -- and to address those aspects of OSS not covered by the PIDs -- Qwest subjected its OSS to rigorous testing by an independent third party (KPMG). KPMG's Third Party Test was overseen by the Regional Oversight Committee (ROC). Nebraska was among the 13

states in Qwest's local region that participated in the ROC collaborative. The ROC process was designed to encourage collaboration, and it enabled Nebraska to pool its resources with other states so that it could benefit from a comprehensive approach to testing. The ROC test has been the most comprehensive and collaborative of all of the OSS tests conducted to date. Every aspect of the ROC test's development and execution was subject to input by numerous parties, including CLECs and this Commission.

7. The ROC test was performed through a series of transactional and operational evaluations. These evaluations tested the five primary components of Qwest's OSS (pre-ordering, ordering, provisioning, maintenance and repair, and billing), the technical assistance Qwest offers CLECs, and Qwest's Change Management Process (CMP). KPMG and Hewlett-Packard (or HP, the pseudo-CLEC in the test) together executed a total of 32 tests, consisting of 711 evaluation criteria. Of these 711 criteria, 685 had defined success measures and 26 were "diagnostic." Notably, Qwest satisfied 645 of the 685 non-diagnostic criteria and failed to satisfy only 11 (less than 1.6 percent). Of the remaining 29, KPMG was "unable to determine" whether Qwest satisfied 26, and three were deemed "not applicable" in the Final Report.

8. KPMG adopted a military-style, "test-until-you-pass" philosophy. When Qwest did not pass a test, an observation, or exception, identifying the problem was issued, and Qwest worked to resolve the problem before it was retested. A total of 242 observations and 256 exceptions were issued in the course of the test, and Qwest successfully resolved all but nine exceptions and one observation; of them, an additional five exceptions have been closed/inconclusive. These few unresolved items do not alter the conclusion that Qwest provides CLECs access to its OSS in accordance with the standards set forth by Section 271 and the FCC. In the few instances in which Qwest did not resolve the observation or exception (or where KPMG and HP were "unable to determine" whether Qwest passed a test criterion), Qwest has provided additional evidence to this Commission satisfying Section 271's OSS requirements.

9. At the completion of the vast majority of the OSS testing process, on April 19, 2002, KPMG and HP generated and delivered a Draft Final Report to the ROC that was similar to the Final Reports it prepared in the context of other regional Bell-operating company (RBOC) OSS tests. Like all reports issued as part of the OSS test process, the Draft Final Report was subject to comment and deliberation by the Technical

Advisory Group (TAG), including discussion in vendor technical conferences. Following this review process and the completion of testing on May 28, 2002, KPMG and HP produced a Final Report describing every aspect of the test process, as well as their findings and conclusions.

10. The Commission's assessment of the evidence before it finds that the results of the Third Party Test support the conclusion that Qwest is providing CLECs with pre-ordering, ordering, provisioning, maintenance and repair, and billing capabilities, as well as technical assistance, on a nondiscriminatory basis. The test results also support a conclusion that Qwest is providing OSS to its competitors in a manner that affords them a meaningful opportunity to compete.

11. This Commission has carefully examined the results of the test, including the test criteria found unsatisfied or unable to determine. The Commission finds that the existence of these "unsatisfied" or "unable to determine" test criteria, which are limited in number and scope, are not sufficient to undermine a conclusion that Qwest provides OSS and change management to its competitors on a nondiscriminatory basis that provides them a reasonable opportunity to compete. As the FCC has observed, "the determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before the [FCC]." See Georgia/Louisiana 271 Order at App. D-5, 8. Based on the commercial performance shown by Qwest, and the results of the Third Party Test, the Commission finds Qwest's OSS and Change Management Process adequate to meet the relevant checklist requirements under Section 271.

12. Qwest's OSS and Change Management Process appear to meet the relevant checklist requirements under Section 271, with the following caveat. On Qwest's wholesale side, KPMG, the Regional Oversight Committee (ROC) Operational Support Systems (OSS) test administrator, discovered a number of CLEC orders being either mishandled or rejected due to what Qwest calls "human error." While Qwest asserts that adequate training has been provided to affected employee groups, this was a recent development, and therefore, very little hard evidence exists to validate whether this problem has truly been corrected. With KPMG unable, at this time, to confirm or deny long-term compliance, this open issue was left closed unresolved.

#### **COMPLIANCE WITH QWEST'S PERFORMANCE ASSURANCE PLAN (QPAP)**

13. On April 23, 2002, this Commission entered its original order approving Qwest's QPAP as amended. However, after consideration of a Motion for Rehearing filed by Qwest, on May 29, 2002, the Commission revised its findings regarding Qwest's QPAP and directed Qwest to make the appropriate modifications prior to June 4, 2002.

14. Qwest, on May 31, 2002, filed with the Commission, a revised Statement of Generally Available Terms (SGAT) in Application No. C-2750. Within that SGAT, Qwest incorporated its modified QPAP as Exhibit K. Exhibit K was subsequently amended by Qwest on June 10, 2002, to address concerns expressed by AT&T and Commission staff.

15. In review of Qwest's filing, the Commission is of the opinion that Qwest's current QPAP is a sufficient anti-backsliding mechanism. Furthermore, the inclusion of the QPAP in Qwest's SGAT supports a recommendation that Qwest's 271 application is in the public interest.

16. Nonetheless, the Commission will continue to monitor Qwest's compliance in regards to its QPAP. Should it be necessary to intervene, the Nebraska Commission reserves the right to institute a proceeding to review and potentially modify the QPAP at any time.

#### **CHECKLIST ITEM NO. 1: INTERCONNECTION AND COLLOCATION**

17. In multiple hearings beginning in 1998 and concluding in March 2002, the Commission reviewed all aspects of Checklist Item No. 1. The Commission considered Qwest's provisioning of interconnection trunks and collocation, as well as interconnection trunk repair and trunk blockage in open and thorough processes. The Commission first approved Checklist Item No. 1 on May 10, 2000, citing Qwest's 1999 performance and the fact that Qwest had established through existing interconnection agreements that it had concrete legal obligations to provide the required elements of Checklist Item No. 1.

18. In the Commission's May 10, 2000, order, the Commission requested performance updates. After hearings on September 6, 2002, and March 11-12, 2002, the Commission found that Qwest's current performance continued to satisfy the interconnection and collocation requirements of Checklist Item No. 1. The Commission also determined the legal adequacy of Qwest's Nebraska SGAT relating to interconnection and collocation. On July 30, 2001, after receiving the Multi-state Facilitator's Report on interconnection and collocation and

reviewing the multi-state record, the Commission conducted oral arguments on disputed items related to the report. On November 20, 2001, the Commission issued an order concerning the Workshop One Report.

**CHECKLIST ITEM NO. 2: ACCESS TO UNBUNDLED NETWORK ELEMENTS  
(UNEs)**

19. The Commission considered three items under Checklist Item No. 2: Access to Qwest's systems or "classic" OSS; (2) UNE Combinations; and (3) Emerging Services. The Commission initially joined the Arizona workshop process to consider Emerging Services in June 2000 and UNE Combinations in July 2000. On July 9, 2001, the Commission held a hearing on UNE Combinations and Emerging Services, in which Qwest presented its performance data. On September 6, 2001, the Commission held hearings on Qwest's performance data including emerging services and UNE Combinations. On September 19, 2001, based on both the concrete legal obligation contained in Qwest's SGAT and Qwest's record of performance, the Commission approved Qwest's compliance with that portion of Checklist Item No. 2 relating to UNE-P (Platform), EEL (dedicated transport/loop combinations) and emerging services.

20. Pursuant to the Commission's directive in its September 19, 2001, order for performance updates, Qwest provided on-going performance reports and, on March 11-12, 2002, the Commission held hearings in which Qwest presented its audited and reconciled performance data. After reviewing the data submitted by Qwest, the Commission reaffirmed that Qwest's current performance continued to satisfy the UNE Combination portion of Checklist Item No. 2.

21. The Commission also reviewed SGAT Sections 9.1 (UNEs generally), 9.3 (subloops), 9.4 (line sharing), 9.7 (dark fiber) 9.20 (packet switching) 9.21 (line splitting) and 9.23 (UNE Combinations including UNE-P and EEL) based upon the Multi-state Facilitator's Report and the multi-state workshop record. After oral arguments on this matter, the Commission approved SGAT Sections 9.3, 9.4, 9.7 and 9.20 on October 16, 2001. Similarly, after receiving the facilitator's report, reviewing the multi-state record and hearing oral argument, the Commission approved SGAT Sections 9.1, 9.21 and 9.23 on December 4, 2001. Finally, the Commission found on January 8, 2002, that Qwest's SGAT Section 12 established that Qwest met the requirements related to Qwest's legal obligation to provide OSS.

**CHECKLIST ITEM NO. 3: ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY**

22. At the conclusion of a week-long hearing in November 1998, the Commission found that Qwest had complied with Checklist Item No. 3 regarding access to its poles, ducts, conduits, and rights-of-way. The Commission reaffirmed that Qwest met this checklist item in its May 7, 2002, decision. The Commission reviewed the SGAT and its revisions, the multi-state Facilitator's Report on Group 1 issued March 19, 2001, and the record of the multi-state workshops. The Commission subsequently held oral arguments on July 30, 2001, and issued a decision on October 30, 2001, finding Qwest's SGAT Section 10.8 regarding Checklist Item No. 3 in compliance with the Act.

**CHECKLIST ITEM NO. 4: LOOPS**

23. *Loop Offerings.* The Commission held a series of hearings beginning in November 1998 to determine Qwest's compliance with this Checklist Item No. 4. However, before the Commission found Qwest in compliance, it wanted to evaluate performance data under the ROC negotiated and agreed upon PIDs. In two separate hearings, on September 6, 2001, and March 11-12, 2002, Qwest provided the Commission with its current performance on Checklist Item No. 4 under the ROC PIDS.

24. On May 7, 2002, the Commission found that Qwest satisfied Checklist Item No. 4. The Commission reviewed the SGAT and its revisions relating to loop offerings, the Multi-state Facilitator's Report, the multi-state workshop record and the briefs submitted by parties. Furthermore, the Commission conducted oral arguments on disputed items related to the report on September 5, 2001. On December 4, 2001, the Commission adopted the facilitator's recommended resolutions for SGAT issues related to Qwest's SGAT Sections 9.2 and 9.5 provided Qwest revised its SGAT pursuant to the Order.

**CHECKLIST ITEM NO. 5: TRANSPORT**

25. The Commission held a series of hearings, beginning in November 1998, to determine Qwest's compliance with Checklist Item No. 5. Just as with unbundled loops, the Commission did not approve Checklist Item No. 5 in the initial years of Qwest's application, because the ROC was in the process of creating and finalizing PIDs that would allow Qwest to establish that it was providing unbundled loops to CLECs at an acceptable level of

quality. Before the Commission found Qwest in compliance with Checklist Item No. 5, the Commission wanted to evaluate performance data under the ROC negotiated and agreed upon PIDs. In two separate hearings on September 6, 2001, and March 11-12, 2002, Qwest provided the Commission with its current performance on Checklist Item No. 5 under the ROC PIDS. On May 7, 2002, the Commission found that Qwest satisfied Checklist Item No. 5.

26. For the purposes of determining the legal adequacy of Qwest's Nebraska SGAT relating to transport, the Commission reviewed the record developed in the multi-state proceedings relating to Workshop No. 4. After a complete review of the facilitator's report and the multi-state record, the Commission conducted oral arguments on disputed items and formally approved Qwest's SGAT Sections 9.6 and 9.8 on December 4, 2001.

#### **CHECKLIST ITEM NO. 6: SWITCHING**

27. The Commission independently reviewed all aspects of Checklist Item No. 6. The Commission held a series of hearings beginning in November 1998 to determine Qwest's compliance with Checklist Item No. 6. Just as with unbundled loops, after this hearing the Commission still did not approve this checklist item because the ROC was in the process of creating and finalizing PIDs that would allow Qwest to establish that it was providing unbundled loops to CLECs at an acceptable level of quality. Before the Commission found Qwest in compliance with Checklist Item No. 4, it wanted to evaluate performance data under the ROC negotiated and agreed upon PIDs. In two separate hearings in which CLECs actively participated, on September 6, 2001, and March 11-12, 2002, Qwest provided the Commission with its current performance on Checklist Item No. 6 under the ROC PIDS. On May 7, 2002, the Nebraska Commission found that Qwest satisfied Checklist Item No. 6.

28. For the purposes of determining the legal adequacy of Qwest's Nebraska SGAT relating to transport, the Commission reviewed the SGAT, the multi-state facilitator's recommended decision issued September 5, 2001, the multi-state workshop record and the briefs submitted by parties. The Commission conducted oral arguments on disputed items and formally approved Qwest's SGAT sections 9.9, 9.10 and 9.11 on December 4, 2001.

#### **CHECKLIST ITEM NO. 7: 911/E911, DIRECTORY ASSISTANCE AND OPERATOR SERVICES**



29. The Commission thoroughly reviewed Qwest's provisioning of access to 911/E911 service, directory assistance services and operator services in an open and fair legal process. At the conclusion of a week-long hearing in November 1998, the Nebraska Commission concluded that Qwest had complied with Checklist Item No. 7. On September 6, 2001, and March 11-12, 2001, the Commission held hearings on Qwest's continued performance, with Qwest, AT&T and Cox participating. The Commission reaffirmed that Qwest met this checklist item in our May 7, 2002, decision when we found that Qwest continued to provide 911/E911, operator services and directory assistance to CLECs on a nondiscriminatory basis.

30. For the purposes of determining the legal adequacy of Qwest's Nebraska SGAT relating 911/E911 service, directory assistance services and operator services, the Commission reviewed the record developed in the multi-state proceedings relating to the Group 1 and the Multi-state Facilitator's Report on Group 1 issued March 19, 2001. Following the oral arguments on July 30, 2001, the Commission issued a decision on October 30, 2001, finding Qwest's SGAT Sections 10.3, 10.5, 10.6 and 10.7 regarding Checklist Item No. 7 in compliance with the Act.

#### **CHECKLIST ITEM NO. 8: WHITE PAGES DIRECTORY LISTINGS**

31. On April 9, 1999, after the conclusion of a week-long hearing in November 1998 and reviewing post hearing briefing, the Commission concluded that Qwest had complied with Checklist Item No. 8 for the provisioning of access to white page listings. On September 6, 2001, and March 11-12, 2001, the Nebraska Commission held hearings on Qwest's continued performance in this area. The Commission reaffirmed that Qwest met Checklist Item No. 8 in our May 7, 2002, decision when we found that Qwest continued to provide white page listings to CLECs on a nondiscriminatory basis.

32. The Commission also reviewed the SGAT and its revisions, the Multi-state Facilitator's Report on Group 1 issued March 19, 2001, relating to white page provisioning and the record of the multi-state workshops. After holding oral arguments on July 30, 2001, the Commission issued a decision on October 30, 2001, finding Qwest's SGAT Section 10.4 and 15 regarding Checklist Item No. 8 in compliance with the Act.

#### **CHECKLIST ITEM NO. 9: NUMBERING ADMINISTRATION**

33. The Commission examined Qwest's provisioning of access to numbering administration and on April 9, 1999, concluded that Qwest had complied with Checklist Item No. 9. On September 6, 2001, and March 11-12, 2001, the Commission held hearings on Qwest's continued performance. The Commission reaffirmed that Qwest meets this checklist item in our May 7, 2002, decision when we found that Qwest continues to provide access to number administration to CLECs on a nondiscriminatory basis.

34. The Commission also reviewed the legal adequacy of Qwest's Nebraska SGAT relating to white page listings by reviewing the SGAT and its revisions, the Multi-state Facilitator's Report on Group 1 issued March 19, 2001, and the record of the multi-state workshops. After holding oral arguments on July 30, 2001, the Commission issued a decision on October 30, 2001, finding Qwest's SGAT Section 13 regarding Checklist Item No. 9 in compliance with the Act.

**CHECKLIST ITEM NO. 10: CALL-RELATED DATABASES AND ASSOCIATED SIGNALING**

35. After hearings and a complete review of the record before it, the Commission concluded that Qwest had complied with Checklist Item No. 10, provisioning of access to call-related databases and associated signaling on April 9, 1999. On September 6, 2001, and March 11-12, 2001, the Commission held hearings on Qwest's continued performance. The Commission reaffirmed that Qwest met this checklist item in our May 7, 2002, decision finding that Qwest continued to provide call-related databases and associated signaling to CLECs on a nondiscriminatory basis.

36. For the purposes of determining the legal adequacy of Qwest's Nebraska SGAT relating to signaling and databases, the Nebraska Commission reviewed the record developed in the multi-state proceedings relating to Group 1 including the Facilitator's Report on Group 1 issued March 19, 2001. The Commission held oral arguments on July 30, 2001, and issued a decision on October 30, 2001, finding Qwest's SGAT Section 9.13, 9.14, 9.15, 9.16, and 9.17 regarding Checklist Item No. 10 in compliance with the Act.

**CHECKLIST ITEM NO. 11: LOCAL NUMBER PORTABILITY (LNP)**

37. In multiple hearings, the Commission reviewed all aspects of Checklist Item No. 11. The Commission first approved Qwest's provisioning of number portability on April 9, 1999.

Afterwards, however, Cox took issue with the manner in which Qwest made LNP available to CLECs. Between the November 1998 hearing and today, Qwest has made its entire region, 100 percent LNP capable. A second hearing to address Cox's concerns was held on October 1999. In response to Cox's concerns and the Commission's April 9, 1999, order in which the Commission requested performance updates, Qwest provided its most current audited performance data in hearings on September 6, 2001, and March 11-12, 2002. After reviewing the data submitted by Qwest, the Commission found that by setting the LNP triggers in advance, Qwest enables CLECs to activate number portability without any further involvement by Qwest and found that Qwest continues to be in compliance with Checklist Item No. 11.

38. After receiving the Facilitator's Report on Multi-state Workshop One and reviewing a complete record of the proceeding, the Commission conducted oral arguments on disputed items related to the report issued on July 30, 2001. On November 20, 2001, the Commission issued an order adopting the facilitator's recommended resolutions for SGAT issues related to Checklist Item No. 11 and, thereby, approved SGAT Sections 10.2.

#### **CHECKLIST ITEM NO. 12: LOCAL DIALING PARITY**

39. At the conclusion of a week-long hearing in November 1998, the Commission concluded that Qwest had complied with Checklist Item No. 12 provisioning of dialing parity in its order issued April 9, 1999. The Commission reaffirmed that Qwest met this checklist item in our May 7, 2002, decision.

40. For the purposes of determining the legal adequacy of Qwest's Nebraska SGAT relating to dialing parity, the Nebraska Commission reviewed the record developed in the multi-state proceedings relating to the Group 1, including the Multi-state Facilitator's Report on Group 1 issued March 19, 2001. The Commission held oral arguments on July 30, 2001, and issued a decision on October 30, 2001, finding Qwest's SGAT Section 10.8 regarding Checklist Item No. 12 in compliance with the Act.

#### **CHECKLIST ITEM NO. 13: RECIPROCAL COMPENSATION**

41. The Commission initially withheld judgment on April 9, 1999, with respect to Checklist Item No. 13, indicating that it desired more information on Internet service provider (ISP) traffic and reciprocal compensation arrangements. After the FCC issued its decision on reciprocal compensation for ISP traffic, and after briefs on the impact of that decision on Qwest's

satisfaction of Checklist Item No. 13 were submitted and reviewed, on September 5, 2001, the Commission found that Qwest satisfied all requirements of Checklist Item No. 13. As with the other checklist items, Qwest continued to update the Commission on its performance on Checklist Item No. 13. On September 6, 2001, and March 11-12, 2001, the Commission held hearings on Qwest's most current performance data. On May 7, 2002, the Commission held that Qwest continued to satisfy the requirements of Checklist Item No. 13.

42. After receiving the Multi-state Facilitator's Report and a complete record of the proceeding, the Commission conducted oral arguments on disputed items related to the report on July 30, 2001. On November 20, 2001, the Commission issued an order concerning the Workshop One Report and adopted the facilitator's recommended resolutions for SGAT issues related to Checklist Item No. 13 and, thereby, approved SGAT Sections 7.3.

#### **CHECKLIST ITEM NO. 14: RESALE**

43. The Commission considered Qwest's provisioning of resale portability in open and thorough processes and first approved Checklist Item No. 14 on April 9, 1999. The Commission's April 9, 1999, order required continuing performance updates and Qwest provided its most current audited performance data in hearings on September 6, 2001, and March 11-12, 2002. On May 7, 2002, the Commission held that Qwest continued to satisfy the requirements of this checklist item.

44. The Commission reviewed the record developed in the multi-state proceedings relating to the Multi-state Workshop One and resale. After reviewing the Multi-state Facilitator's Report and a complete record of the proceeding, the Commission offered the opportunity for oral arguments on any disputed items. On November 20, 2001, the Commission issued an order concerning the Workshop One Report and adopted the facilitator's recommended resolutions for SGAT issues related to Checklist Item No. 14 and thereby approved SGAT Section 6.

45. On January 25, 2002, Qwest filed an updated SGAT, which incorporated the required revisions. On March 19, 2002, the Commission found that Qwest had made the necessary revisions to the SGAT and approved Qwest's updated SGAT as filed on January 25, 2002, in Application No. C-2666, in its entirety.

46. The Commission's determinations regarding Qwest's compliance with Track A, the checklist contained in Section

271(c)(2)(B) of the Act, the public interest requirements of Section 271(d)(3)(C), and the criteria in Section 272 of the Act are complete and exhaustive and reflect the collaborative efforts of Qwest, the Commission, third party evaluators, and all interested parties, including CLECs.

47. In the four years since Qwest, then known as US West Communications, filed Application No. C-1830, the Commission has evaluated Qwest's compliance with the checklist contained in Section 271(c)(2)(B) of the Telecommunications Act of 1996 ("the Act"), Track A, the public interest requirements of Section 271(d)(3)(C), and the criteria in Section 272 of the Act.

48. In so doing, the Commission has relied on fair, iterative and transparent processes that allowed, to the extent possible, full participation by all interested parties. The Commission's endorsement of Qwest's application to provide interLATA services in Nebraska is based on a comprehensive factual record that was developed in state-specific hearings and several multi-jurisdictional collaborative proceedings incorporating the views of all parties.

49. In summary, the Commission has fully and fairly evaluated whether Qwest satisfies the requirements of Section 271. We hereby conclude in this final summary order, that Qwest meets all aspects of the checklist contained in Section 271(c)(2)(B) of the Telecommunications Act of 1996 (the Act), Track A, the public interest requirements of Section 271(d)(3)(C), and the criteria in Section 272 of the Act.

50. Finally, the success of this very robust test has been the collaborative effort whereby states, competitors and Qwest have shared information and talent. Each state will have a required post assurance plan, however, the benefits of collaboration far surpass individual state efforts. Economic efficiencies to states, competitors and Qwest are undeniable. State by state oversight, without collaboration would ultimately end in an appeal to the FCC for uniformity. Such an appeal would be avoided if discussion and resolution of continued collaboration is completed before final approval. Framework for collaboration would be easily reassembled. Qwest's agreement would send a message that they have the intent and will to maintain and continue the competitive market place envisioned by Congress.

O R D E R

51. IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Qwest's OSS and Change Management Process are adequate to meet the relevant checklist requirements under Section 271 and that Qwest satisfies all issues relating to emerging services and the requirements of Checklist Item No. 2 with the caveat mentioned in paragraph 12 of this order.

52. IT IS FURTHER ORDERED that Qwest's amended QPAP, as filed as Exhibit "K" to Qwest's revised Statement of Generally Available Terms (SGAT), in Application No. C-2750, on June 10, 2002, is a sufficient anti-backsliding mechanism, supportive of a recommendation that Qwest's 271 application is in the public interest.

53. IT IS FURTHER ORDERED that at this time, Qwest has successfully satisfied the requirements of the "14 point checklist" of Section 271, for the state of Nebraska, and the Commission, hereby, removes any and all conditional language on all checklist items. Nonetheless, the Commission reserves the right to continue to monitor Qwest's performance on an ongoing basis.

54. IT IS FINALLY ORDERED that in light of Qwest's achievements toward irreversibly opening its markets to competition, the Nebraska Commission at this time, recommends to the Federal Communications Commission that Qwest be allowed to enter the in-region interLATA long distance market.

55. MADE AND ENTERED at Lincoln, Nebraska, this 12th day of June, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

Commissioner Lowell C. Johnson  
Concurring Statement

Application C-1830  
June 12, 2002

I concur with the order approving Qwest's 271 application and recommend approval to the Federal Communications Commission in Application No. C-1830 and offer the following comments for the record:

The 271 approval process prescribed in the telecommunications Act of 1996 has been a long and arduous effort, both for the industry and for our Nebraska Public Service Commission regulatory administration. It is my belief that promises and expectations of expanded competition and choice, in telecommunications benefiting the entire state, have not been fully realized. Instead, the telecom highway has been littered with "road kill" attempts to provide even a semblance of meaningful competition, choice and service.

Previous and concurrent orders of this Commission have defined a responsible commitment to protect and promote the public interest. Compliance with the mandates to provide competition will require authoritative leadership and continuing strictly programmed oversight of Qwest and all telecom providers in Nebraska. The validity of this order approving Qwest's 271 application and the recommendation for FCC approval is contingent upon cooperative and responsible attention of all parties. Customer centricity can then be realized as a tandem goal of corporate strategy and regulatory authority.

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Lowell C. Johnson  
District 3