BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of US West Communications, Inc., Denver, Colorado, filing its notice of intention to file its Section 271(c) application with the FCC and request for the the Commission to verify US West compliance with Section 271(c).	)	Application No. C-1830 FACTUAL FINDINGS AND PARTIAL VERIFICATION Entered: May 10, 2000

BY THE COMMISSION:

1. This matter originally came before the Nebraska Public Service Commission (Commission) on June 23, 1998. The Federal Telecommunications Act of 1996 (the Act; the Federal Act; or the Telecommunications Act) provides that before any regional Bell operating company (RBOC), such as US West Communications (US West), is eligible to provide in-region interLATA telecommunications service, it first must demonstrate to the Federal Communications Commission (FCC) that it has opened its local markets to competition. A RBOC's local market is considered open once it demonstrates compliance with the "fourteen-point checklist" found in subsection 271(c) of the Act, along with other measures.[1] The FCC has 90 days from the filing of an application to make its determination. The Act provides that the FCC should consult with the applicable state commission as to whether the RBOC has satisfied the requirements of Section 271.

2. US West filed its 271 application with the Commission on June 23, 1998, and it was docketed as Application No. C-1830. Notice of the application was published in the <u>The Daily Record</u>, Omaha, Nebraska, on June 25, 1998.

3. When US West filed Application No. C-1830 with the Commission, Aliant Communications (now doing business as ALLTEL); AT&T Communications of the Midwest (AT&T); Cox Nebraska Telecom (Cox); MCI Telecommunications Corp. (MCI); Nebraska Independent Telephone As-

[1] Generally, to meet the checklist requirements of 47 USC 271(c)(2)(B), US West must demonstrate that it provides access or interconnection to: 1) interconnection; 2) network elements; 3) poles, ducts, conduits, and rights-of-way; 4) local loops; 5) local transport; 6) local switching; 7) 911 and E911, directory assistance, and operator call completion services; 8) white pages directory listings; 9) telephone numbers; 10) databases and signaling; 11) interim number portability; 12) local dialing parity; 13) reciprocal compensation; and 14) resale. US West must also show: that it has a facilities-based competitor [under 47 USC 271(c)(1)(A)]; that it has a separate affiliate for competitive activities [under 47 USC 272]; and that approval of the application be in the public interest [under 47 USC 271(d)(3)(C)].

sociation (NITA); Nebraska Telephone Association (NTA); Sprint Communications Company, L.P./United Telephone Company of the West (Sprint) and the U.S. Department of Justice were made parties to this docket. Subsequently, GTE, McLeod, Rhythms Links, Inc. and New Edge Network, Inc. also became parties to this docket.

4. After a hearing beginning on November 16, 1998, the Commission entered its first Factual Findings and Partial Verification order, on April 9, 1999. Said order, in short, found that US West complied with checklist items 3, 7, 8, 9, 10, 11, 12 and 14. However, the Commission determined that US West had not demonstrated compliance with items 1, 2, 4, 5 and 6. Matters related to checklist item 13, reciprocal compensation, were at that time, under consideration before both this Commission and the FCC. Therefore, the Commission declined to issue an opinion on that item.

5. The Commission emphasized that in many of the areas where US West had not demonstrated compliance, the evidence in the record was simply insufficient for the Commission to reach a conclusion as to US West's performance. Where that was the case, the Commission had no choice but to find that US West has failed to meet its burden.

6. In the April 9, 1999, order, the Commission attempted to give US West specific guidance for future filings in this application. In general, the Commission urged that as US West provides further data in this docket, that it do so in a format that facilitates comparison or analysis. Information submitted in such a manner would constitute a better basis for meaningful evaluation.

7. On June 8, 1999, the Commission entered Procedural Order No. 11, which set forth a schedule to address the Section 271 checklist items for which US West failed to demonstrate compliance. On July 27, 1999, after receiving notification from US West of its intention to seek verification of four of the remaining checklist items, the Commission entered Procedural Order No. 12 setting a hearing in the matter for September 9 and 10, 1999. On August 31, 1999, the Commission set forth a hearing schedule in Progression Order No. 13.

8. On September 9 and 10, 1999, the Commission held a hearing in this docket to determine whether US West had, in fact, satisfied the requirements of Section 271 checklist items 1, 4, 5 and 6. Following the hearing, on September 29, 1999, the Commission ordered post-hearing briefs in this matter to be filed with the Commission on or before October 20, 1999. Finally, on December 21, 1999, the Commission entered Procedural Order No. 15 in which it requested interested parties to file additional comments on both the FCC's Unbundled Network Element Remand Order and the revisions contained in US West's December 9, 1999, revised SGAT as either relate to this proceeding.

9. As we outlined in the April 9, 1999, US West has the ultimate burden of proof with respect to factual issues "even if no party opposes [US West's] application."[2] Despite the limited intervener evidence in the record, US West must:

> . . . present a prima facie case in its application that all of the requirements of section 271 have been satisfied. Once the applicant has made such a showing, opponents of the BOC's entry must, as a practical matter, produce evidence and arguments necessary to show that the application does not satisfy the requirements of section 271 or risk ruling in the BOC's favor. [The FCC] emphasize[d], however, that the BOC applicant retains at all times the ultimate burden of proof that its application satisfies section 271.[3]

10. In the present order, we find that US West has not met that burden with respect to checklist items 4, 5 and 6; however, we conclude that US West has *preliminarily* met its burden in regards to checklist item 1.

11. As previously provided in the initial April 9, 1999, order, the Commission has again tried to provide a road map for US West. However, because of the complexity and technical nature of the evidence in this matter, the Commission has developed separate appendices attached to this order which outline the road map that US West must follow to achieve our full Section 271 endorsement to the FCC. In light of the detail contained in the attachments, we will not outline the specific deficiencies in regard to checklist items 4, 5 and 6 within the body of this order. Furthermore, as the substantive evidence in this matter is technical in nature and submitted primarily in written form, we will only briefly summarize the content of the oral testimony where applicable.

12. Finally, as the four checklist items discussed in this order have been the subject of multiple hearings, the evidence outlined below and in the attachments may contain evidence received at any or all of said hearings.

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[2] *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Service in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order, para. 43 (rel. Aug. 19, 1997) (Ameritech MichiganOrder).

[3] *Ameritech Michigan Order*, para. 44.

ANALYSIS

1. Interconnection
47 USC 271(c)(2)(B)(i)

Statutory Requirement

13. Item 1 of the competitive checklist requires that US West provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."[4] Section 251(c)(2) imposes a duty on US West "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access."[5] In the *Local Competition First Report and Order*, the FCC concluded that interconnection referred "only to the physical linking of two networks for the mutual exchange of traffic."[6]

14. Section 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection "at any technically feasible point within the carrier's network."[7] Second, an incumbent LEC must provide interconnection that is "at least equal in quality to that provided by the local exchange carrier to itself."[8] Finally, the incumbent LEC must provide interconnection "on rates, terms and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [Section 251] and

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[4] 47 U.S.C.§ 271(c)(2)(B)(i); see In the Matter of Application of BellSouth Corp., Bellsouth Telecomm., Inc., and BellSouth Long Distance, Inc. For Provision of In-Region, InterLATA services in Louisiana, CC Docket No. 98-121, Memorandum Opinion and Order, 13 FCC Rcd at 20640-42 (rel. Oct. 13, 1998) (Second BellSouth Louisiana Order); Ameritech Michigan Order, 12 FCC Rcd at 20662-63.

[5] 47 U.S.C.§ 251(c)(2)(A).

[6] *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd at 15590 (Local *Competition First Report and Order*).

[7] 47 U.S.C.§ 271(c)(2)(B); In the *Local Competition First Report and Order*, the FCC identified a minimum set of technically feasible points of interconnection. *See Local Competition First Report and Order*, 11 FCC Rcd at 15607-09.

[8] 47 U.S.C.§ 251(c)(2)(C).

252."[9] However, Section 252(d)(1) also provides that just and reasonable rates under Section 251(c)(2) shall be based upon cost and may include a reasonable profit.

15. To implement the equal-in-quality requirement in Section 251, the FCC's rules require an incumbent LEC to design and operate its interconnection facilities to meet "the same technical criteria and service standards" that are used for the interoffice trunks within the incumbent LEC's network.[10] In the *Local Competition First Report and Order*, the FCC identified trunk group blockage and transmission standards as indicators of an incumbent LEC's technical criteria and service standards.[11] The FCC, in prior Section 271 applications, concluded that disparities in trunk group blockage indicated a failure to provide interconnection to competing carriers equal-in-quality to the interconnection the BOC provided to its own retail operations.[12]

16. In the *Local Competition First Report and Order*, the FCC concluded that the requirement to provide interconnection on terms and conditions that are "just, reasonable and nondiscriminatory" means that an incumbent LEC must provide interconnection to a competitor in a manner that is no less efficient than the way in which the incumbent LEC provides the comparable function to its own retail operations.[13] The FCC's rules interpret this obligation to include, among other things, the incumbent LEC's installation time for interconnection service[14] and its provisioning of two-way trunking arrangements.[15] Similarly, repair time for troubles affecting interconnection trunks is useful for determining whether a BOC provides interconnection service under "terms and conditions that are

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[9] *Id.* §251(c)(2)(D).

[10] *Local Competition First Report and Order*, 11 FCC Rcd at 15613-15; *see Second BellSouth Louisiana Order*, 13 FCC Rcd at 20641-42.

[11] *Local Competition First Report and Order*, 11 FCC Rcd at 15614-15.

[12] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20648-51; *Ameritech Michigan Order*, 12 FCC Rcd at 20671-74.

[13] *Local Competition First Report and Order*, 11 FCC Rcd at 15612; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642.

[14] 47 C.F.R. § 51.305(a)(5).

[15] *In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, p.27, para. 65 *(rel. Dec. 22, 1999) (Bell Atlantic Order)*.

no less favorable than the terms and conditions" the BOC provides to its own retail operations.[16]

17. Competing carriers may also choose any method of technically feasible interconnection at a particular point on the incumbent LEC's network.[17] Incumbent LEC provision of interconnection trunking is one common means of interconnection. Technically feasible methods also include, but are not limited to, physical and virtual collocation and meet point arrangements.[18] In the *Advanced Services First Report and Order*, the FCC revised its collocation rules to require incumbent LECs to include both shared cage and cageless collocation arrangements as part of their physical collocation offerings.

18. The provision of collocation is an essential prerequisite to demonstrating compliance with item 1 of the competitive checklist.[19] To show compliance with its collocation obligations, US West must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are "just, reasonable and nondiscriminatory" in accordance with Section 251(c)(6) and the FCC's implementing rules.[20] Furthermore, the FCC has indicated that data showing the quality of procedures for processing applications for collocation space, as well as the timeliness and efficiency of provisioning collocation space, aids the FCC in evaluating a BOC's compliance with its collocation obligations.[21]

<u>**Evidence**</u>

Interconnection at any technically feasible point

19. Section 251(c)(2)(B) requires that interconnection must be provided "at any technically feasible point" within US West's

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[16] 47 C.F.R. § 51.305(a)(5).

[17] *Local Competition First Report and Order*, 11 FCC Rcd at 15779; *see Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41.

[18] 47 C.F.R. § 51.321(b); *Local Competition First Report and Order*, 11 FCC Rcd at 15779-82; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41.

[19] 47 U.S.C. § 251(c)(6); *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41; *BellSouth South Carolina Order*, 13 FCC Rcd at 649-50; *Bell Atlantic Order*, p.27, para. 66.

[20] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41; *BellSouth Carolina Order*, 13 FCC Rcd at 649-51.

[21] *Bell Atlantic Order*, para. 66.

network. Mr. Michael Weidenbach, on behalf of US West, indicated that (competitive local exchange carriers) CLECs may terminate at any of the following six points of interconnection defined in paragraph 210 of the First Report and Order: (1) line-side local switch; (2) trunk-side local switch; (3) trunk interconnection tandem switch; (4) central office cross-connection points; (5) signal transfer points; and (6) points of access to unbundled elements. Additional connection points are available through the Bona Fide Request Process.

20. According to Mr. Weidenbach, US West offers these modes through the options of physically collocated facilities, virtually collocated facilities, mid-span meet (two carriers build to interconnect office-to-point), and entrance facilities (two carriers connect office-to-office). US West provides training, facility tours, its Interconnection and Resource Guide, and individual consultations to assist CLECs with ordering and obtaining interconnection.[E]

Equal in Quality

21. Section 251(c)(2)(C) provides that interconnection must be "at least as equal in quality to that provided by [US West] to itself or to . . . any other party to which the carrier provides interconnection."

22. Mr. Weidenbach testified that the data demonstrated interconnection with CLECs was equal in quality to that of US West. He further testified that the blockage problems which had arisen were the result of increased traffic on the CLEC trunks, which traffic was above and beyond that forecasted by the CLEC. According to Mr. Weidenbach, US West, through its CLEC notification process, was quickly able to address the issue and bring the blockage rates back down to acceptable levels.

23. Furthermore, according to US West, in regards to installation times and commitments, CLECs generally experienced better results than US West did itself. Also, in the area of trouble reports and repairs, US West, with the exception of the time period surrounding the company strike, had very good repair times. In totality, Mr. Weidenbach indicated that he believed US West had demonstrated that they provide such services at a level equal in quality to what US West provides itself.

Weidenbach, Tr. at 256.
Weidenbach, Exh. 7 at 6-7.
Id. at 5.
[E] Weidenbach, Exh. 8 at 6.

24. Mr. Weidenbach stated that, as of September 1999, US West had four CLECs interconnecting in four Nebraska cities, including Omaha, Grand Island, Norfolk and Fremont; with 117 trunk groups in service in Nebraska.[e] In an effort to demonstrate the comparable quality of said interconnection, evidence was presented to the Commission on blockage, as well as data on installation and repair.

Rates, terms, and conditions

25. Section 251(c)(2)(D) states that interconnection must be "provided on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."[E] Section 252(d)(1)provides that such rates may be calculated based upon cost plus a reasonable profit.

26. According to US West, it has a concrete and specific legal obligation to provide interconnection in the AT&T, Aliant Midwest, Cox and TCG interconnection agreements. The Commission has approved the terms, conditions, and interim rates in US West's interconnection agreements.[e] The Commission is currently addressing permanent interconnection pricing in Application No. C-1415. As such, the interim rates may be subject to true-up by the Commission.

Collocation

27. In regards to collocation, which is also a part of checklist item 1, US West indicated that it had 39 collocations in 13 different central offices in Nebraska. Such penetration gives CLECs access to 73 percent of the access lines that US West has in service in the state. Collocation involves the three primary steps of a feasibility study, the collocation quote and the installation of the collocation. Mr. Weidenbach testified that the evidence presented by US West indicated that the company provided collocation to CLECs with rates, terms and conditions that are just reasonable and nondiscriminatory, providing an efficient competitor a meaningful opportunity to compete.

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[26] Weidenbach, (Sept. 9-10, 1999) Tr. at 206.

[27] 47 U.S.C. §251(c)(2); BellSouth Second Louisiana Order, para. 61.

[28] Bergman, Exh. 42, at 2.

[29] Weidenbach, (Sept. 9-10, 1999) Tr. at 219 (Of the 39 collocations, 26 are caged physical collocations, four are cageless collocations and nine are virtual collocations).

[30] *Id.* at 219.

OPINION AND FINDINGS

28. US West has a number of approved interconnection agreements on file with the Commission. This number is increasing ever steadily every month. Under said agreements, US West has a concrete and specific legal obligation to provide interconnection in a non-discriminatory fashion. However, in order to meet the requirements of Section 271, US West must also demonstrate that they are, in fact, meeting said obligations. While US West initially failed to present sufficient data for the Commission to assess its performance at the outset of this application, the company has now presented the necessary data for the Commission to meaningfully evaluate US West's compliance.

29. In specific regards to checklist item 1, the Commission finds as follows:

LIS Trunk Performance

30. The performance measures provided by US West include:

- Installation Commitments Met
- Installation Interval (Measured in Days)
- Provisioning Delayed Days
- Troubles Cleared Within Four Hours
- Mean Time to Restore
- Repair Repeat Trouble Rate
- Trouble Rate

31. US West has retail analogs for all of these measures, so the appropriate standard for evaluating its performance in providing LIS trunks to CLECs is parity. The Commission used the Modified Z score and a five percent level of significance in its evaluation (statistical parameters that were used in the Bell Atlantic-New York 271 application). The statistical analysis was hindered somewhat by the fact that US West reported complete data for only the first three of the seven performance measures cited for the nine months, October 1998 to June 1999, covered in its testimony. For the next three indicators, data was available only for the April to June 1999 span, and for the last indicator, only CLEC performance data was available for the same three months. Thus, for the last indicator, no statistical evaluation can be performed. Summaries of the data reported are included in spreadsheets that are part of this order.

32. The data available demonstrate that US West is meeting the statistical standard, and is, in most cases, actually providing better service to CLECs than to itself for the analogous measures. This statement is based on calculating Modified Z scores for the six performance issues and comparing it to the critical value for

each measure. The critical value is based on the five percent level of significance. The critical values in these analyses are plus or minus 1.645, depending on the particular hypothesis tested for the measure. The general form of each hypothesis is that US West is providing service at parity.

33. Modified Z scores were calculated for each month in the reporting span when available. In addition, Modified Z scores were calculated for the fourth quarter of 1998, first quarter of 1999, and second quarter of 1999 by aggregating the results from the appropriate months in those quarters. In no instance do the Modified Z scores approach the critical value for the performance measures for either the monthly or quarterly observations. Therefore, US West is found to be providing service at parity because there is no statistical evidence to warrant rejecting the null hypothesis. Although this statement may sound somewhat like faint praise, in the context of statistical evaluation it is actually quite strong.

34. It is noted that the sample sizes for the data reported are small in some cases. These small sample sizes cast doubt on the reliability of the findings for these cases. One or two observations within a small sample size that are atypical of performance for the other observations can influence the result greatly. As sample size grows, the effect of such outlier observations is diminished. The purpose of asking US West to aggregate data on a quarterly basis was an attempt to deal with the small sample size problem. For the first three performance measures, the sample sizes of the quarterly data are generally large enough to address the sample size problem. However, even after the data for April to June 1999 (the only months for which performance data are reported for these measures) are aggregated, the sample size is much smaller than desirable from a statistical analysis point of view.

35. US West is not to blame for the shortcomings of the data. It reported the transactions it completed. The number of production transactions is simply not large enough for the statistical analysis to be given much weight.

Collocation

36. The performance measures provided by US West include:

- Installation Commitments Met
- Installation Interval
- Feasibility Study Interval
- Feasibility Study Commitments Met
- Collocation Quote Interval

37. The standard for measuring performance for these measures is a benchmark rather than parity. However, no benchmark is specified for the first and fifth of these performance measures, so evaluating the performance is difficult. For the other performance measures, the benchmarks used in the evaluation have been taken from interconnection agreements.

38. US West meets the standard for the three performance measures for which a benchmark is specified. The sample sizes are small, so the data was aggregated by quarters. Again, this shortcoming in the data for the purposes of evaluation is beyond the control of US West.

Trunk Blockage

39. The performance measures provided by US West include:

- Direct Trunking-End Office to End Office
- Tandem Trunking-End Office to Tandem Switch

40. There are two ways to evaluate trunk blockage, a benchmark, or in the cases where the benchmark is exceeded, parity. US West provided performance data for itself and for the CLECs, but did not provide enough information for the Commission to calculate a modified Z score for these measures. Hence, the Commission is limited to conducting a benchmark evaluation.

41. The benchmark used was a one percent blockage rate. In most of the nine months reported, October 1998 to June 1999, the blockage rate for US West and the CLECs for the two performance measures was less than the one percent blockage rate. Thus, the blockage rate supports the idea that service is nondiscriminatory. However, for the period January 1999 to March 1999, the CLEC blockage rate for Direct Trunking-End Office to End Office exceeded the benchmark. In February, it was 13.05 percent and in March it was 7.11 percent. In its testimony and exhibits, US West asserted that the large spike in CLEC blockage rates was due to a CLEC failing to order sufficient trunks. Once the CLEC and US West identified the problem and additional trunk capacity was installed, the blockage rates dropped below the one percent standard. The Commission accepts this explanation for the high blockage rates and therefore concludes that US West is providing nondiscriminatory service.

42. For the Tandem Trunking-End Office to Tandem performance measure, US West's blockage rate was 3.30 percent in October 1998, while the blockage rate for CLECs was 1.91 percent in December 1998. For all other months, the blockage rates were less than the one percent benchmark for both US West and the CLECs. The Commission has no ability to perform parity analysis in this case, which it would prefer to have done. However, the Commission does

not view one month of trunk blockage exceeding the benchmark as sufficient to reach a conclusion that service is discriminatory.

43. Upon reviewing the testimony and the evidence filed herein, the Commission concludes that US West has demonstrated that it preliminarily complies with the requirements of checklist item 1. However, when US West revisits the previously approved checklist items at the conclusion of this proceeding, they will be required to supplement the record as set forth in Appendices A, B and C.

44. In regards to checklist items 4, 5 and 6, the Commission has determined that US West has not, at this time, adequately demonstrated compliance. Therefore, the Commission finds it unnecessary to attempt to summarize the oral testimony received at the September 1999 hearings on these checklist items. Instead, the parties are directed to the current summary of the statutory requirements as set forth below, as well as Appendices A, B and C, wherein the Commission has established the prerequisite evidence and format that US West will need to present to the Commission in order to achieve compliance with the said checklist items.

4. Unbundled Local Loops

Section 271(c)(2)(B)(iv)

<u>Statutory Requirements</u>

45. Item 4 of the competitive checklist requires that US West provide "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services."[31] The FCC has defined the loop as "a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the network interface device at the customer premises."[32] This definition includes different types of loops, including "two-wire and four-wire analog voice-grade loops and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL and DS1-level signals."[33]

46. In order to establish that it is "providing" unbundled local loops in compliance with Section 271(c)(2)(B)(iv), US West must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the types and quantities that competitors reasonably demand and at an acceptable

[31] 47 U.S.C.§ 271(c)(2)(B)(iv).

[32] Local Competition First Report and Order, 11 FCC Rcd at 15691.

[33] Id.

level of quality.[34] US West must also demonstrate that it provides nondiscriminatory access to unbundled loops.[35]

47. Furthermore, US West must offer unbundled loops in a manner that permits efficient CLECs with a meaningful opportunity to compete.[36] To do this, US West must demonstrate that it provides unbundled loops to CLECs within a reasonable time frame and with a minimum of service disruption.[37] In addition, US West must provide CLECs loops of the same quality as those it utilizes to serve its own customers.[38]

48. As the FCC stated in the *Second BellSouth Louisiana Order*, one way that a BOC can demonstrate compliance with checklist item 4 is to submit performance data evidencing the time interval for providing unbundled loops and whether due dates are met.[39] Also, competing carriers must also have nondiscriminatory access to the various functions of US West's OSS in order to obtain unbundled loops in a timely and efficient manner.[40] As such, the FCC indicated in the *Bell Atlantic Order* that this Commission should look to performance data measuring whether competing carriers are informed of the status of their orders and how responsive the BOC is in providing access to necessary support functions, including preordering provisions, ordering, maintenance, repair and billing.

49. US West must also provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested.[41] In order to provide the requested loop functionality, such as the ability to deliver ISDN or xDSL services, the BOC may be required to take affirmative steps to condition existing loop facilities to enable competing carriers to provide services not currently provided over the facilities, with the competing carrier bearing the cost of such conditioning. US West must provide competitors with access to unbundled loops regardless of whether it uses integrated digital loop carrier

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[34] Second BellSouth Louisiana Order, 13 FCC Rcd at 20637.

[35] Id. at 20712-13.

[36] BellSouth Second Louisiana Order, para. 198.

[37] 47 C.F.R. § 51.313(b); 47 CFR § 51.311(b); Second BellSouth Louisiana Order, para. 185.

[38] Id.

[39] Second BellSouth Louisiana Order, 13 FCC Rcd at 20713.

[40] Id.; Ameritech Michigan Order, 12 FCC Rcd at 20614.

[41] Second BellSouth Louisiana Order, 13 FCC Rcd at 20713; Local Competition First
Report and Order, 11 FCC Rcd at 15691.

(IDLC) technology[42] or similar remote concentration devices for the particular loop sought by the competitor.

50. As part of allowing a competitor to combine its facilities with US West's loops, US West must provide cross-connect facilities between an unbundled loop and a competing carrier's collocated equipment at prices consistent with Section 252(d)(1) and on terms and conditions that are reasonable and nondiscriminatory under Section 251(c)(3).[43] Incumbent LECs must also provide access to unbundled network interface devices so that requesting carriers can connect their own loop facilities at that point.[44]

5. Unbundled Local Transport
Section 271(c)(2)(B)(v)

Statutory Requirements

51. Item 5 of the competitive checklist requires US West to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services."[45] The FCC also requires US West to provide both dedicated and shared transport to requesting carriers.[46] Dedicated transport consists of BOC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by BOCs or requesting telecommunications carriers, or between switches owned by BOCs or requesting telecommunications carriers.[47] Shared transport consists of transmission facilities shared by more than one carrier, including the BOC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the BOC's network.[48]

6. Unbundled Local Switching
Section 271(c)(2)(B)(vi)

Statutory Requirements

52. Item 6 of the competitive checklist requires US West to provide "[l]ocal switching unbundled from transport, local loop

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42 Local Competition First Report and Order, 11 FCC Rcd at 15691.
43 Second BellSouth Louisiana Order, 13 FCC Rcd at 20713.
44 Local Competition First Report and Order, 11 FCC Rcd at 15693.
45 47 U.S.C.§ 271(c)(2)(B)(v).
46 Second BellSouth Louisiana Order, 13 FCC Rcd at 20719.
47 Id.; see also Bell Atlantic Order, para. 337, n.1041.
48 Second BellSouth Louisiana Order, 13 FCC Rcd at 20719 n.650; see also Bell Atlantic Order, para. 337, n. 1042.

transmission, or other services."[49] In the *Second BellSouth Louisiana Order,* the FCC required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.[50] The features, functions and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers.[51] Additionally, local switching includes all vertical features such as call waiting, call forwarding and caller identification that the switch is capable of providing, as well as any technically feasible customized routing functions.[52]

53. Moreover, in the *Second BellSouth Louisiana Order,* the FCC required BellSouth to permit competing carriers to purchase unbundled network elements, including unbundled switching, in a manner that permits a competing carrier to offer, and bill for, exchange access and the termination of local traffic.[53] The FCC also stated that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and that a BOC must demonstrate that it is providing equivalent access to billing information.[54] Therefore, the ability of US West to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local switching.[55] Thus, there is an overlap between the provision of unbundled local switching and the provision of the OSS billing function.[56]

54. In the *Second BellSouth Louisiana Order*, the FCC stated that to comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality.[57] The FCC also stated that a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange

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[49] 47 U.S.C.§ 271(c)(2)(B)(v); see also Second BellSouth Louisiana Order, 13 FCC Rcd at 20722.

[50] Second BellSouth Louisiana Order, 13 FCC Rcd at 20722-24.

[51] Id. at 20722.

[52] Id. at 20722-23.

[53] Id. at 20723, 20733-34.

[54] Id. at 20723.

[55] Id.

[56] Bell Atlantic Order, para. 344.

[57] Second BellSouth Louisiana Order, 13 FCC Rcd at 20723.

carrier's point of presence to a dedicated trunk port on the local switch.[58]

FURTHER FINDINGS

55. While US West has not demonstrated compliance with all of the checklist items at this time, this in itself does not mean that competition has not occurred in Nebraska. The Omaha metropolitan statistical area continues to evolve into a more competitive local market. As US West continues to provide the types of information detailed in this order and in Appendices A, B and C, we will continue to evaluate whether competition will thrive. Once we are satisfied that the customers of CLECs who rely on US West receive the same level of service as US West's own customers, we can verify to the FCC US West's compliance with Section 271(c).

56. In this order, the Commission provides US West guidance as to what additional evidence is required and the form in which the Nebraska Commission would like it presented before we will fully endorse US West's Section 271 application. While not bound by the US West Regional Oversight Committee's actions (ROC), this Commission is committed to the ROC collaborative. As a result, The Nebraska Commission will give great weight to the ROC's findings in the area of OSS testing and the establishment of performance assurance measures. As such, US West is encouraged to continue their active involvement with the collaborative and to incorporate ROC's findings into future proceedings before this Commission.

57. Therefore, if US West wishes to acquire our full endorsement prior to applying at the FCC, it may present the required evidence on the unsatisfied checklist items shortly before the ROC's testing is completed or at one final showing in conjunction with providing updated data on those items where we have already found compliance. By so doing, the Commission can evaluate whether US West has satisfied and is continuing to meet its obligations.

58. MADE AND ENTERED at Lincoln, Nebraska, this 10th day of May, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

//s//Frank E. Landis

//s//Daniel G. Urwiller

[58] Id.