

further noted that Qwest should clarify its position concerning several complaints of WorldCom concerning Qwest's operations support systems (OSS) and that the Commission should carefully review that response.

Primary Issues in Dispute

4. *Compliance with Section 271(c)(1)(A).* Based on the record, the Commission finds that Qwest satisfies the requirements of section 271(c)(1)(A) in New Mexico, Oregon and South Dakota based on the interconnection agreements it has implemented with competing carriers in those states. The Oregon and South Dakota Commissions found that Qwest satisfies the requirements of Track A in these states. The New Mexico Commission found that Qwest complied with Track A for business subscribers, but deferred the issue of Qwest's compliance with Track A for residential customers to the Commission.

5. The record shows that Qwest relies on interconnection agreements with AT&T Broadband Phone of Oregon, AT&T Corp. (fka TCG-Oregon), Black Hills FiberCom, Brooks Fiber of New Mexico, Cricket Communications, Eastern Oregon Telecom, McLeodUSA, Northern Valley Communications, and Time Warner Telecom of New Mexico in support of its Track A showing for these three states.

6. The Commission finds that, in New Mexico, Cricket Communications, a PCS provider, serves more than a *de minimis* number of residential users over its own facilities and, for purposes of section 271 compliance represents an actual commercial alternative to Qwest for residential telephone exchange services. The Commission determines that Cricket Communications' residential broadband PCS offering in New Mexico is a "telephone exchange service" for purposes of Track A. The Commission further concludes that the evidence submitted by Qwest adequately demonstrates that more than a *de minimis* number of Cricket customers use their service in lieu of wireline telephone service. The evidence shows that Cricket's marketing efforts stress that its product is a substitute for residential local telephone service. In addition, the Commission concludes that Qwest's survey demonstrates that Cricket customers use Cricket service in lieu of wireline telephone service. The Commission finds that the survey was random, and contains statistical analysis of sufficient quality to allow the Commission to rely on it for the purpose of showing compliance with Track A.

7. *Checklist Item 2—Unbundled Network Elements.* Based on the record,

the Commission finds that Qwest has provided "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2.

8. The Commission concludes that Qwest meets its obligation to provide access to its OSS—the systems, databases, and personnel necessary to support the network elements or services. Nondiscriminatory access to OSS ensures that new entrants have the ability to order service for their customers and communicate effectively with Qwest regarding basic activities such as placing orders and providing maintenance and repair services for customers. The Commission finds that, for each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, and billing, as well as change management and technical assistance), Qwest provides access that enables competing carriers to perform the functions in substantially the same time and manner as Qwest or, if there is not an appropriate retail analogue in Qwest's systems, in a manner that permits an efficient competitor a meaningful opportunity to compete.

9. Pursuant to this checklist item, Qwest must also provide nondiscriminatory access to network elements in a manner that allows other carriers to combine such elements, and demonstrate that it does not separate already combined elements, except at the specific request of a competing carrier. Based on the evidence in the record, and upon Qwest's legal obligations under interconnection agreements, Qwest demonstrates that it provides to competitors combinations of already-combined network elements as well as nondiscriminatory access to unbundled network elements in a manner that allows competing carriers to combine those elements themselves.

10. The Commission finds that Qwest's UNE rates in New Mexico, Oregon and South Dakota are just, reasonable, and nondiscriminatory as required by section 252(d)(1). Thus, Qwest's UNE rates in New Mexico, Oregon and South Dakota satisfy checklist item 2. The State Commissions concluded that Qwest's UNE rates satisfy checklist item 2. The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if either "basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that a reasonable

application of TELRIC principles would produce."

11. The Commission finds that rates in the three states satisfied a benchmark analysis with rates in Colorado, demonstrating that Qwest's New Mexico, Oregon and South Dakota UNE rates fall within a range of rates that a reasonable application of TELRIC would produce. The Commission also rejects arguments by a party that Qwest relied on rates in Oregon that (1) were based on old data, and (2) might be in effect only temporarily since they could be increased in a state commission proceeding that was pending. Thus, the Commission concludes that Qwest's UNE rates in New Mexico, Oregon and South Dakota satisfy the requirements of checklist item 2.

Other Checklist Items

12. *Checklist Item 1—Interconnection.* Based on the evidence in the record, the Commission finds that Qwest demonstrates that it provides interconnection in accordance with the requirements of section 251(c)(2), and as specified in section 271 and applied in the Commission's prior orders.

13. Qwest also demonstrates that its collocation offerings in New Mexico, Oregon and South Dakota satisfy the requirements of sections 251 and 271 of the Act. Qwest demonstrates that it offers interconnection in New Mexico, Oregon and South Dakota to other telecommunications carriers at just, reasonable, and nondiscriminatory rates, in compliance with checklist item 1.

14. *Checklist Item 4—Unbundled Local Loops.* The Commission concludes that Qwest provides unbundled local loops in accordance with the requirements of section 271 and our rules. Our conclusion is based on our review of Qwest's performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, high-capacity loops, as well as our review of Qwest's processes for hot cut provisioning, and line sharing and line splitting.

15. *Checklist Item 5—Unbundled Transport.* Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." The Commission concludes, based upon the evidence in the record, that Qwest demonstrates that it provides unbundled local transport in compliance with the requirements of checklist item 5.

16. *Checklist Item 7—911/E911 Access & Directory Assistance/Operator Services.* Section 271(c)(2)(B)(vii)(I), (II),