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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 03-194, FCC 03-309, adopted December 3, 2003, and released December 3, 2003. The full text of this order may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. It is also available on the Commission's Web site at http://www.fcc.gov/Bureaus/Common_Carrier/in-region_applications.

Synopsis of the Order

1. *History of the Application.* On September 4, 2003, Qwest filed an application with the Commission, pursuant to section 271 of the Telecommunications Act of 1996, to provide in-region, interLATA service in the state of Arizona.

2. *The State Commission's Evaluation.* The Arizona Corporation Commission (Arizona Commission), following an extensive review process, determined that Qwest satisfied all 14 of the checklist items contained in section 271. Consequently, the Arizona Commission recommended that the Commission grant Qwest's application to provide in-region, interLATA service in Arizona.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation on October 9, 2003, recommending approval of the application. The Department of Justice concludes that opportunities are available to competing facilities-based carriers serving business and residential customers.

Primary Issues in Dispute

4. *Checklist Item 2—Unbundled Network Elements.* Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."

Based on the evidence in the record, we conclude that Qwest has satisfied the requirements of checklist item 2.

5. *Operations Support Systems (OSS).* 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 Qwest provides access to each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, and billing, as well as change management and technical assistance), in order for competitive LECs to compete and in accordance with the Act. In particular, the Commission thus finds that the allegations raised about Qwest's change management process (CMP) in this record do not warrant a finding of checklist noncompliance. The Commission finds that Qwest's CMP and Qwest's pattern of compliance with the CMP satisfies checklist item 2.

6. *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. The Commission's conclusion is based on its review of Qwest's performance for all loop types—which include voice grade loops, digital subscriber line-capable loops, and high capacity loops—as well as hot cut provisioning and our review of Qwest's processes for line sharing and line splitting. As of May 31, 2003, competitors have acquired from Qwest and placed into use approximately 37,719 stand-alone unbundled loops in Arizona. With respect to concerns regarding recent changes in Qwest's policy on construction of new facilities related to provisioning of high-capacity unbundled loops, the Commission declines to find this allegation warrants a finding of checklist noncompliance. Absent additional evidence, the Commission is not convinced that Qwest's policy has denied competitive LECs a meaningful opportunity to compete to date.

Other Checklist Items

7. *Checklist Item 2—OSS.* The Commission finds that Qwest demonstrates it provides nondiscriminatory access to its pre-ordering, ordering, provisioning, maintenance and repair, and billing

functions. Regarding specific areas for which commenters or the Commission identifies issues with Qwest's OSS performance, the Commission finds that these problems do not demonstrate overall discriminatory treatment or are not sufficient to warrant a finding of checklist noncompliance.

8. *Pricing of Unbundled Network Elements.* The Commission finds, as did the Arizona Commission, that Qwest's UNE rates in Arizona are just, reasonable, and nondiscriminatory as required by section 252(d)(1). Thus, Qwest's UNE rates in Arizona satisfy checklist item 2.

9. *Checklist Items 1, 3, 5–14.* An applicant under section 271 must demonstrate that it complies with item 1 (interconnection), item 3 (poles, ducts, and conduits), item 5 (unbundled transport) item 6 (unbundled local switching), item 7 (E911/operator services/directory assistance), item 8 (white pages), item 9 (numbering administration), item 10 (data bases and signaling), item 11 (number portability), item 12 (local dialing parity), item 13 (reciprocal compensation), and item 14 (resale). Based on the evidence in the record, and in accordance with Commission rules and orders concerning compliance with section 271 of the Act, the Commission concludes that Qwest demonstrates that it is in compliance with checklist items 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 in Arizona.

Other Statutory Requirements

10. *Compliance with Section 271(c)(1)(A).* In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B). The Commission concludes that Qwest satisfies the requirements of Track A in Arizona. This decision is based on the number of interconnection agreements it has implemented with competing carriers in the state of Arizona.

11. *Section 272 Compliance.* Qwest provides evidence that for two of its affiliates—Qwest LD Corp. and Qwest Communications Corporation—it maintains the same structural separation and nondiscrimination safeguards in Arizona as it does in the other 13 states where Qwest has already received section 271 authority. Based on the record before us, the Commission concludes that Qwest has demonstrated that it will comply with the requirements of section 272.