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appear to fit better into the Commission's recovery criteria. In other instances, Qwest has requested cost recovery for projects that it failed to even mention as part of pooling implementation in Transmittal 120. Moreover, Qwest has ignored the Commission's directive that price cap incumbent local exchange carriers ("ILECs") may only recover the "initial implementation costs" of pooling, beginning April 2, 2002, and, incredibly, has added hundreds of thousands of dollars in alleged costs to take into account that its own recovery period under Transmittal 134 will extend until August 2004. Thus, despite Qwest's insistence that it has eliminated all ineligible costs, its final recovery figure (\$81,497,548) remains extremely high.

The Bureau should not reward Qwest for gaming the system in this manner. Qwest's manipulation of its alleged pooling costs raises questions about whether any of its cost claims are legitimate. Moreover, just because the bottom line figure in the second tariff may appear more reasonable *when compared* to the ridiculously inflated figure in the first tariff, it does not mean the second tariff actually is reasonable. As discussed below, Qwest's Transmittal No. 134 is far from reasonable.

I. THE COMMISSION SHOULD DISALLOW MANY OF QWEST'S PURPORTED SWITCHING COSTS.

Although Qwest has eliminated some of the switching costs claimed in its initial tariff, many of the remaining claims are flatly inconsistent with the Commission's three-part test.^{2/} The Commission should reject Qwest's continued attempts to recover those switching costs that are ineligible for thousands-block number pooling cost recovery.

^{2/} *Third NRO Order* ¶ 39 (presumption against recovery can only be rebutted if ILEC shows that the costs: (1) would not have been incurred "but for" pooling; (2) were incurred "for the provision of" pooling; and (3) are "new costs").

In the *Designation Order*,^{3/} the Commission recognized that Qwest's claimed switching costs were significantly higher than those of other carriers that had filed pooling tariffs, and it surmised that these higher costs may result from Qwest's use of AXE-10 switches, which are not widely used in the industry.^{4/} Specifically, the Commission directed Qwest to "explain its rationale for its decision not to replace or upgrade" its AXE-10 switches and to estimate what the number pooling switch upgrade costs would have been had Qwest replaced the AXE-10 switches with newer switches.^{5/}

In Transmittal 134, Qwest says it has removed the non-pooling (CALEA and Unique LRN) costs associated with the AXE-10 switch upgrades, and it admits that it purchased both the generic and the number pooling feature on a network "buy-out" basis.^{6/} As a threshold matter, the fact that Qwest now has eliminated costs that it *knew* were not eligible for recovery does not answer whether its failure to modernize its network unfairly shifts costs to IXCs. The question remains whether the cost of the portion of the AXE-10 generic that supports only pooling is unreasonably high in comparison to costs that would have been incurred had Qwest solely had to upgrade more modern switches. The answer likely is yes, but Qwest has not supplied sufficient information for either the Commission or AT&T to make that determination. Moreover, simply because Qwest got "a better deal with the vendor" by purchasing the software across its entire network instead of on a switch-by-switch basis does not excuse its failure to allocate the total

^{3/} *Qwest Tariff FCC No. 1 Transmittal No. 120*, WCB Docket No. 02-117, Order Designating Issues for Investigation, DA 02-1245 (rel. May 23, 2002) ("*Designation Order*").

^{4/} *Designation Order* ¶ 5.

^{5/} *Designation Order* ¶ 5.

^{6/} Qwest Transmittal No. 134, Workpaper 1a at 4 (Reference No. 62).

costs properly and remove from recovery the costs associated with those switches that are not in pooling areas.^{7/}

In addition, with regard to both its AXE-10 and DMS switches, Qwest still has not justified its request to recover costs for upgrades that assist with grouping numbers -- those native to a switch, those ported to a switch, and those pooled to a switch.^{8/} While Qwest has attempted to re-state its explanation, this claim still does not meet the Commission's "but for" or "in the provision of" tests because the grouping requirement is necessary even in the absence of pooling. In particular, local number portability ("LNP") requires carriers to combine ported numbers and non-ported numbers regardless of whether pooling has been deployed.

Similarly, Qwest continues to claim costs for additional database capacity to store pooled records even though it also seeks recovery for implementing Efficient Data Representation ("EDR") in its network.^{9/} Moreover, there is no basis for Qwest's suggestion that, even with EDR, there will be a meaningful increase in the number of stored records as a result of pooling. In the absence of quantitative analysis to the contrary -- which Qwest has not provided -- Qwest's claims regarding the necessity for greater database volume are unsupported and, thus, should be rejected.

II. QWEST'S EVER-SHIFTING JUSTIFICATIONS FOR RECOVERY OF NETWORK SUPPORT COSTS WARRANT REJECTION OF ITS TARIFF.

With regard to network support, Qwest continues its strategy of removing some of the more egregious costs that it claimed in its initial pooling tariff, but leaving in place, without explanation, many ineligible costs. AT&T continues to have many of the same questions that it

^{7/} See Qwest Transmittal 134, Description and Justification (D&J) at 9.

^{8/} Qwest Transmittal No. 134, Workpaper 1a at 3-5 (Reference Nos. 9, 15, and 19).

^{9/} Qwest Transmittal No. 134, Workpaper 1a at 5-6.

posed in response to Transmittal 120 and in response to Qwest's Direct Case.^{10/} Moreover, Transmittal 134 raises some additional questions about whether Qwest is attempting to mislead the Commission about how it incurred the costs for which it seeks recovery.

For example, in Transmittal 120, Qwest claimed that it would need more than \$2.5 million under Reference Number 30 to add 17 consultants/testers in 2001, 9 in 2002, and 9 in 2003 to its Complex Translations organization in order to deal with "trouble conditions" brought about by the introduction and implementation of pooling.^{11/} In response to Transmittal 120, AT&T pointed out that repair and maintenance functions are an "incidental consequence" of number pooling and, thus, the Reference Number 30 costs were not recoverable.^{12/} Rather than eliminate the ineligible costs, however, Qwest has *increased* its claim by \$200,000 and *changed the description* of the function. Specifically, instead of primarily assisting with trouble conditions, these consultants and testers now apparently are responsible for "the installation of switch software features required for number pooling."^{13/} Qwest's *post hoc* manipulation of its cost justifications in an attempt to bring plainly ineligible costs within the Commission's criteria not only should cause the Commission to reject the entire \$2.7 million Qwest seeks under this

^{10/} *Qwest Tariff FCC No. 1 Transmittal No. 120*, WCB Docket No. 02-117, Direct Case of Qwest Corporation (filed June 10, 2002) ("Qwest Direct Case").

^{11/} Qwest Direct Case, Transmittal 120, Workpaper 1a at 9 (Reference No. 30).

^{12/} *Qwest Tariff FCC No. 1 Transmittal No. 120*, WCB Docket No. 02-117, AT&T Corp. Opposition to Direct Case at 9-10 (filed June 24, 2002) ("AT&T Opposition").

^{13/} Qwest Transmittal No. 134, Workpaper 1a at 9 (Reference No. 30). In Transmittal 120, virtually the entire introductory description of the Reference No. 30 function involved addressing "trouble conditions" that "will occur during the introduction and implementation of number pooling, as well as ongoing problems attributable to the anticipated large volumes of pooled numbers." Qwest Transmittal 120, Workpaper 1a at 9 (Reference No. 30). By contrast, in Transmittal 134, the introductory paragraph to Reference No. 30 merely says that this category includes costs associated with the installation of switch software features and that "Complex Translations personnel perform [several] switch-related functions." Qwest Transmittal No. 134, Workpaper 1a at 9 (Reference No. 30).

category, it should give the Commission pause about placing any credence in the assertions Qwest makes throughout this transmittal.

In any event, Qwest fails to explain how it could possibly have required 17 full time consultants in 2001 “to write methods and procedures for activating number pooling features” or why the equivalent of nine employees will be required in 2002-2004 merely to perform translations work in switches and resolve trouble conditions associated with pooling.^{14/} AT&T sincerely doubts whether Qwest’s expenditures would have been even half so lavish had it been spending its own money. In this economy, when AT&T and other IXC’s are forced to make difficult choices with regard to their own employees, it is manifestly unfair to expect them to foot the bill for Qwest’s excessive personnel costs.

Qwest also changes the description of the Reference No. 33 function associated with performing inventories of Qwest’s existing numbering resources.^{15/} In this instance, however, the changes appear to be merely semantic. Qwest still is seeking an exorbitant amount (more than \$6 million) for employees that merely prepare and evaluate the contamination levels within thousands-blocks of numbers.^{16/} And, while Qwest has reduced slightly the number of employees it will require to complete these evaluations, it continues to claim that it must recover for the equivalent of 13.5 employees in 2000 even though it did not implement number pooling in any NPA that year.^{17/} Moreover, Qwest asserts that it required a total of 42.5 employees in 2001 for completing contamination evaluations when it only implemented pooling in 7 NPA

^{14/} Qwest Transmittal No. 134, Workpaper 1a at 6, 8-9 (Reference No. 30).

^{15/} Qwest Transmittal No. 134, Workpaper 1a at 9 (Reference No. 33).

^{16/} Qwest Transmittal No. 134, Workpaper 1a at 9 (Reference No. 33); Qwest Transmittal No. 134, Workpaper 1 (Reference No. 33).

^{17/} Qwest Transmittal No. 134, Workpaper 1a at 6, 9 (Reference No. 33).

complexes that year.^{18/} That results in more than six employees per NPA dedicated to checking and evaluating contamination levels. By contrast, AT&T implemented pooling in *100* NPAs over the last ten months, but only used a staff of *four* employees to evaluate contamination levels throughout the entire country, not merely a fourteen-state region. Although AT&T does not know (or care) whether Qwest suffers from this level of inefficiency with regard to all of its business activities, so long as the Commission's rules allow Qwest to shift the costs of number pooling to AT&T, it must be held to a higher level of accountability.

Apart from being exceedingly high and wholly unjustified, many of Qwest's purported network support costs also fail to satisfy the Commission's three-part test and, therefore, are ineligible for recovery. For example, although Qwest asserts that only the costs that directly support number pooling are included in the Reference No. 33 function described above, it has not explained how it has separated out the costs associated with the preparation of "bi-annual utilization reports, which is work that is also done by this work group."^{19/} Rather, Qwest merely removed \$1.9 million of its originally-requested \$8 million for this function without explanation. AT&T suspects that if the Commission's cost recovery regime covered number reporting as opposed to number pooling, Qwest would have removed exactly the same amount, but labeled the deletion as ineligible pooling costs.

In addition, Qwest continues to seek to recover \$1.5 million for a project management team that will participate in internal audits.^{20/} Because these audits of number pooling processes likely will examine numbering practices in general, the need for this audit verification process is

^{18/} Qwest Transmittal No. 134, Workpaper 1a at 6, 9 (Reference No. 33).

^{19/} Qwest Transmittal No. 134, Workpaper 1a at 9-10 (Reference No. 33).

^{20/} Qwest Transmittal No. 134, Workpaper 1a at 7 (Reference No. 28); Qwest Transmittal No. 134, Workpaper 1 (Reference No. 28).

required without the existence of number pooling. Internal audits plainly are not “for the provision of” thousands-block number pooling and would exist “but for” pooling. These costs should be disallowed because they are general numbering expenses and, as such, do not meet the Commission’s three-part test.

The inclusion of many of Qwest’s network support expenses is another attempt by Qwest to foist a portion of its general numbering administration costs onto IXCs. These costs do not meet the Commission’s “but for” and “for the provision of” standards, and AT&T and other long distance carriers should not be forced to pay for Qwest’s compliance with requirements that are merely a cost of doing business.

III. QWEST HAS NOT MET THE HIGH HURDLE NECESSARY TO RECOVER ITS CLAIMED OSS COSTS.

The Commission made clear in the *Designation Order* that “the burden is upon Qwest to overcome the presumption that specific OSS costs claimed are not part of number administration costs for which Qwest is already compensated under price caps.”^{21/} Qwest apparently believes that it can meet this burden merely by adding two paragraphs to its introductory description of Category 2 OSS costs (stating, in effect, that number pooling adds additional complexities to carriers’ infrastructure that are not present in a “simple” LNP-only environment) and by rearranging the order and titles of the various OSS projects. It cannot. Many of Qwest’s claimed OSS costs remain inconsistent with the Commission’s three-part test because they already were recovered as ordinary numbering administration or LNP costs. Notwithstanding Qwest’s cursory

^{21/} *Designation Order* ¶ 14.

statement to the contrary, there is no indication that it has made any effort to isolate and remove the costs that that were not incurred “but for” pooling and “for the provision of” pooling.^{22/}

More importantly, Qwest has remained completely silent in response to AT&T’s and the Commission’s request for an explanation for why its OSS costs are so exorbitant in comparison with those of other carriers.^{23/} Notwithstanding Qwest’s decision to remove some projects from its extensive list (plainly as a result of AT&T’s suggestion that the costs were ineligible, double counted, or excessive), the effect on Qwest has been largely cost neutral because it has added new OSS projects that, remarkably, were not even considered for recovery two months ago, and has shifted costs from deleted projects to those that remain.

For example, while the description of new Project No. 1 (TN Validation) bears an uncanny resemblance to deleted Project No. 58 (Donated Blocks Ad Hoc Reports), Qwest now seeks recovery of \$712,000 as opposed to \$55,000.^{24/} Similarly, Qwest wants exogenous treatment for another, previously unmentioned OSS function entitled “Management Team – Call Routing” in the amount of \$128,000.^{25/} Notably, even though Qwest declined to seek recovery of these alleged system modification costs two months ago, it states that all the costs were incurred in 2000 and 2001.^{26/} In addition, Qwest has chosen to ignore AT&T’s assertion that \$615,000 appeared excessive for the auto-population of two fields, and instead has increased that

^{22/} Nor has Qwest responded to AT&T’s question about why it thinks it should be able to recover \$240,000 in Telcordia consultant costs as a technology update to its OSS. *See* AT&T Opposition at 17.

^{23/} AT&T Opposition at 12-13.

^{24/} *Compare* Qwest Transmittal No. 134, Workpaper 2a at 2 (Project No. 1); Workpaper 2 at 1 (Project No. 1) *with* Qwest Direct Case, Transmittal No. 120, Workpaper 2a at 11 (Project No. 58); Workpaper 2 at 4 (Project No. 58).

^{25/} Qwest Transmittal No. 134, Workpaper 2a at 5 (Project No. 15); Workpaper 2 at 3 (Project No. 15).

allocation to \$727,000.^{27/} In fact, virtually all of the other remaining Qwest Category 2 OSS costs have increased, as have most of its Category 3 costs.

Qwest's recent discovery of new OSS projects that purportedly were commenced to implement number pooling, and its movement of costs from ineligible categories to categories that appear more in keeping with the Commission's three-part test raise some serious questions about the veracity of all of Qwest's cost claims. In light of these issues, the Bureau should, at the very least, suspend Transmittal 134 and set it for investigation.

IV. QWEST'S SERVICE DELIVERY COSTS ARE EXCESSIVE AND NOT NECESSARILY RELATED TO NUMBER POOLING IMPLEMENTATION.

Qwest seeks more than \$2.7 million in staffing and training costs for frontline personnel who negotiate service orders and facilitate the porting of contaminated numbers.^{28/} As noted above, even if Qwest truly has efficiency problems to the extent that costs for these activities could sky-rocket to such an excessive level, there is no reason that IXC's should have to pay for Qwest's inefficiency. In addition, it is not clear that all of these costs are recoverable under the Commission's three-part test. For example, Qwest asks to recover costs associated with establishing methods and procedures for pooled assignments to Unbundled Network Elements-Platforms.^{29/} The connection between pooling implementation and this function is tenuous, at best.

^{26/} Qwest Transmittal No. 134, Workpaper 2a at 5 (Project No. 15); Workpaper 2 at 3 (Project No. 15).

^{27/} AT&T Opposition at 16; Qwest Transmittal No. 134, Workpaper 2a at 2-4 (Project Nos. 3-14); Workpaper 2 at 1-3 (Project Nos. 3-14).

^{28/} Qwest Transmittal No. 134, D&J at 14.

^{29/} Qwest Transmittal No. 134, D&J at 14.

V. QWEST HAS NOT PROPERLY ACCOUNTED FOR COST SAVINGS DUE TO POOLING OR ELIMINATED COSTS THAT WERE INCURRED PRIOR TO THE POOLING MANDATE.

Apart from the deficiencies identified above, Qwest has not made a credible showing that it will experience a net cost increase rather than a cost reduction as a result of implementing thousands-block number pooling, as required under the Commission's *Third NRO Order*.^{30/} Specifically, Qwest has not demonstrated that the costs for which it seeks exogenous treatment "exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay other or numbering relief that would otherwise have been required in the absence of pooling."^{31/} Moreover, as it did in Transmittal 120, Qwest improperly attempts to recover thousands-block number pooling costs that were incurred *before* the Commission's number pooling mandates were effective. There is no basis, either legal or technical, to support recovery of these costs. AT&T presented its reasoning in detail with regard to all of these issues in its Opposition to Qwest's Direct Case and, rather than repeat those arguments here, AT&T requests that the Bureau incorporate its Opposition by this reference.^{32/}

In addition to seeking exogenous treatment of expenditures it allegedly made prior to the time the Commission ordered thousands-block number pooling, Qwest now has added in hundreds of thousands of dollars in costs that it purportedly will incur *after* the initial pooling implementation period ends. Specifically, in the *Third NRO Order*, the Commission concluded that ILECs could complete the initial implementation of pooling in two years, and therefore, carriers should only be able to obtain exogenous treatment for pooling costs for two years.^{33/}

^{30/} *Third NRO Order* ¶ 40; *Designation Order* ¶ 17.

^{31/} *Third NRO Order* ¶ 40.

^{32/} AT&T Opposition at 17-23.

^{33/} *Third NRO Order* ¶ 41.

The Commission explicitly determined that the two-year implementation/recovery period would begin on April 2, 2002.^{34/}

While all of the other ILECs' pooling tariffs went into effect months after April 2, 2002 (because of suspensions and re-filings), they did not try to recover costs beyond April 2, 2004. Rather, they applied a cost-of-money factor to take into account the several months delay in the commencement of recovery. Qwest, in contrast, seems to believe that the Commission-mandated pooling implementation period is somehow pegged to the time at which *Qwest's* tariff becomes effective. Since Qwest did not file its new pooling tariff until last week, it is under the impression that it can continue to recover costs until August 2004. Qwest's theory apparently is that the longer an ILEC delays in filing its pooling tariff, the more "initial implementation" costs it can recover. Taken to its logical conclusion, Qwest's interpretation of the Commission's recovery rules would allow it to postpone the commencement of recovery until 2010, but then amortize all pooling costs that it incurred for the past ten years over the two-year period ending 2012. Obviously, this is not correct. Although it is clear that the Commission should disallow all Qwest cost claims that cover the April-August 2004 timeframe, AT&T believes that this Qwest tariff reflects such a pattern of manipulation that it warrants a full investigation.

^{34/} *Third NRO Order* ¶ 41.

CONCLUSION

For the foregoing reasons, AT&T respectfully requests that the Commission reject Qwest's thousands-block number pooling tariff, Transmittal 134, or at the very least, suspend the tariff and set it for investigation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Angela Collins, hereby certify that on this 29th day of July 2002, I caused copies of the foregoing "AT&T Corp. Petition to Suspend or Reject Tariff" to be sent to the following via electronic mail:

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