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BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**

JEFF HATCH-MILLER – Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

Arizona Corporation Commission

**DOCKETED**

JUL 28 2006

DOCKETED BY	<i>NR</i>
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IN THE MATTER OF THE APPLICATION OF )	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD )	T-03406A-06-0091
COMMUNICATIONS COMPANY, ESCHELON )	T-03267A-06-0091
TELECOM OF ARIZONA, INC., MCLEODUSA )	T-03432A-06-0091
TELECOMMUNICATIONS SERVICES, INC., )	T-04302A-06-0091
MOUNTAIN TELECOMMUNICATIONS, INC., )	T-01051B-06-0091
XO COMMUNICATIONS SERVICES, INC AND )	
QWEST CORPORATION REQUEST FOR )	
COMMISSION PROCESS TO ADDRESS KEY )	
UNE ISSUES ARISING FROM TRIENNIAL )	
REVIEW REMAND ORDER, INCLUDING )	
APPROVAL OF QWEST WIRE CENTER LISTS. )	
)	
)	

**NOTICE OF FILING**

DIECA Communications, Inc., doing business as Covad Communications Company, Eschelon Telecom of Arizona, Inc., McLeodUSA Telecommunications Services, Inc., Mountain Telecommunications, Inc., and XO Communications Services, Inc. hereby file the Public Version of the Testimony of Douglas Denney, a copy of which is attached. A Confidential Version of the testimony of Douglas Denney will be provided to those parties who have docketed Exhibit As and Exhibit Bs to the Protective Order in this docket.

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400 EAST VAN BUREN STREET - SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO 602-256-6100  
FACSIMILE 602-256-6800

1 RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of July 2006.

2 ROSHKA DEWULF & PATTEN, PLC

3  
4 By 

5 Michael W. Patten  
6 One Arizona Center  
7 400 East Van Buren Street, Suite 800  
8 Phoenix, Arizona 85004

9 Attorneys for Covad Communications Company and  
10 Mountain Telecommunications, Inc.

11 Also authorized to sign on behalf of: Eschelon Telecom of  
12 Arizona, Inc., McLeodUSA Telecommunications Services,  
13 Inc. and XO Communications Services, Inc.

14 Original and 23 copies of the foregoing  
15 filed this 28<sup>th</sup> day of July 2006 with:

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Copy of the foregoing hand-delivered/mailed  
21 this 28<sup>th</sup> day of July 2006 to:

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Tempe, AZ 85282

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|----|--|--|
| 1  | 1-800-Reconex, Inc.<br>2500 Industrial Avenue<br>Hubbard OR 97032  | Aztech Communications, Inc.<br>3640 Highway 95<br>Bullhead City, AZ 86442                        |
| 2  |  |  |
| 3  | AboveNet Communications, Inc.<br>360 Hamilton Avenue 7th Floor<br>White Plains, NY 10601                             | AZX Connect, LLC<br>7575 E. Redfield Rd.-137<br>Scottsdale, AZ 85260                             |
| 4  |  |  |
| 5  | Airespring, Inc.<br>6060 Sepulveda Blvd.<br>Suite 220<br>Van Nuys, CA 91411  | BT Communications Sales, LLC<br>11440 Commerce Park Dr.<br>Reston, VA 20191                      |
| 6  |  |  |
| 7  |  | Budget Phone, Inc.<br>P.O. Box 19360<br>Shreveport, LA 71149                                     |
| 8  | Alliance Group Services, Inc.<br>1221 Post Road East<br>Westport, CT 06880   |  |
| 9  |  | BullsEye Telecom, Inc.<br>25900 Greenfield Rd.<br>Suite 330<br>Oak Park, MI 48237                |
| 10 | American Fiber Network, Inc.<br>dba AFN<br>9401 Indian Creek Pkwy<br>Suite 140<br>Overland Park, KS 66210            | Buy-Tel Communications, Inc.<br>6409 Colleyville Blvd.<br>P.O. Box 1170<br>Colleyville, TX 76034 |
| 11 |  |  |
| 12 | American Fiber Systems, Inc.<br>100 Meridian Centre<br>Suite 250<br>Rochester, NY 14618                              | CCG Communications, LLC<br>321 Walnut Street<br>Suite 170<br>Newton, MA 02460                    |
| 13 |  |  |
| 14 | Americas.Com, Incorporated<br>63 South Harrison Street<br>Suite B<br>Denver, CO 80209-3181                           | CenturyTel Solutions, LLC<br>100 Centurytel Drive<br>Monroe, LA 71203                            |
| 15 |  |  |
| 16 | Americom Technologies, Inc.<br>dba Network Utilization Services<br>P.O. Box 990-165<br>Boston, MA 02199<br>T-04267-A | CI <sup>2</sup> , Inc.<br>200 Galleria Parkway<br>Suite 1200<br>Atlanta, GA 30339                |
| 17 |  |  |
| 18 |  |  |
| 19 |  |  |
| 20 | Andiamo Telecom, LLC<br>10575 N. 114th Street<br>Suite 103<br>Scottsdale, AZ 85259                                   | Citizens Long Distance Company<br>4 Triad Center<br>Suite 200<br>Salt Lake, UT 84180             |
| 21 |  |  |
| 22 |  |  |
| 23 | Arizona Dial Tone, Inc.<br>dba Touch Home Phone Service<br>7170 W Oakland St<br>Chandler AZ 85226                    | Citynet Arizona, LLC<br>113 Platinum Dr.<br>Bridgeport, WV 26330                                 |
| 24 |  |  |
| 25 |  |  |
| 26 | AT&T Communications of the Mountain<br>States<br>6554 S. Zeno Ct.<br>Aurora, CO 80016                                | CM Tel (USA) LLC<br>700 Wilshire blvd.<br>7th Floor<br>Los Angeles, CA 90017                     |
| 27 |  |  |

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1	Cogent Communications of Arizona, Inc. 1015 31st St. N.W. Washington, DC 20007	Ernest Communications, Inc. 5275 Triangle Pkwy. Suite 150 Norcross, GA 30092
2		
3	Comm South Companies, Inc. 8035 E. RL Thornton Suite 410 Dallas, TX 75228	Excel Telecommunications, Inc. 2440 Marsh Ln. Carrollton, TX 75006
4		
5		
6	Computer Network Technology Corporation 6000 Nathan Ln. Minneapolis, MN 55442	EZ Phone, Inc. dba Home Phone, Inc. 1095 Home Avenue Akron, OH 44310
7		
8	Connect CCCAZ, Inc. dba Connect! 124 W. Capital Avenue Suite 250 Little Rock AR 72201	FirstMile Services, LLC dba FirstMile Technologies 750 Liberty Drive Westfield, IN 46074
9		
10		
11	Covista, Inc. 721 Broad St. Suite 200 Chattanooga, TN 34702	France Telecom Corporate Solutions, LLC Bldg 3, 2nd Floor, Rm 2829 Herndon, VA 20171
12		
13	Cox Arizona Telcom, LLC dba Cox Communications c/o Mark DiNunzio 1550 W. Deer Valley Rd. Phoenix, AZ 85027	Citizens Telecommunications Company of the White Mountains dba Frontier Communications of the White Mountains 4 Triad Center, Ste. 200 Salt Lake, UT 84180
14		
15		
16	Cypress Communications      Operating Company, Inc. 15 Piedmont Center Suite 100 Atlanta, GA 30305	Global Connection Inc. of America 3957 Pleasantdale Road Atlanta, GA 30340
17		
18		
19	dPI-Teleconnect, Inc. 2997 LBJ Freeway Suite 225 Dallas, TX 75234	Global Crossing Local Services, Inc. 1080 Pittsford Victor Rd. Pittsford, NY 14534
20		
21		
22	DSLnet Communications, LLC 545 Long Wharf Dr. 5th Floor New Haven, CT 06511	Global Crossing North American Networks 1080 Pittsford Victor Road Pittsford, NY 14534
23		
24	Electric Lightwave, Inc. 4 Triad Center Suite 200 Salt Lake City, UT 84180	Global Crossing Telecommunications, Inc. 1080 Pittsford Victor Rod. Pittsford, NY 14534
25		
26	En-Touch Systems, Inc. 13105 Northwest Freeway Suite 1020 Houston, TX 77040	Global Crossing Telemanagement, Inc. 1080 Pittsford Victor Rd. Pittsford, NY 14534
27		
		Granite Telecommunications, LLC 234 Copeland St. Quincy, MA 02169

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- |    |   |  |
|----|---|--|
| 1  | Group Long Distance, Inc.<br>6455 East Johns Crossing<br>Suite 285<br>Duluth, GA 30097                                    | MCI Worldcom Network Services, Inc.<br>201 Spear St., 9th Floor<br>San Francisco, CA 94105                             |
| 2  |   |  |
| 3  | GTC Telecom<br>3151 airway Avenue<br>Suite P-3<br>Costa Mesa, CA 92626  | MCImetro Access Transmission Services,<br>LLC<br>dba MCImetro<br>201 Spear St.<br>9th Floor<br>San Francisco, CA 94105 |
| 4  |   |  |
| 5  |   |  |
| 6  | HJN Telecom, Inc.<br>dba Reliant Communications, Inc.<br>801 International Parkway<br>5th Floor<br>Lake Mary, FL 32746    | Mohave Cooperative Services, Inc.<br>P.O. Box 20037<br>Bullhead City, AZ 86539   |
| 7  |   |  |
| 8  |   |  |
| 9  | IDT America, Corp.<br>520 Broad Street<br>Newark, NJ 07102  | Mpower Communications Corp.<br>171 Sully's Trail<br>Suite 202<br>Pittsford, NY 14534                                   |
| 10 |   |  |
| 11 | Intellicall Operator Services, Inc.<br>dba ILD<br>5000 Sawgrass Village Circle<br>Suite 30<br>Ponte Vedra Beach, FL 32082 | National Brands, Inc.<br>dba Sharenet Communications Company<br>4633 W. Polk Street<br>Phoenix, 85043                  |
| 12 |   |  |
| 13 |   |  |
| 14 | Ionex Communications North, Inc.<br>2020 Baltimore Avenue<br>Kansas City, MO 64108  | New Access Communications, LLC<br>801 Nicollet Mall<br>Suite 350<br>Minneapolis, MN 55402                              |
| 15 |   |  |
| 16 | KMC Data, LLC<br>1755 North Brown Rd.<br>Lawrenceville, GA 30043  | New Edge Network, Inc.<br>dba New Edge Networks<br>3000 Columbia House blvd.<br>Suite 106<br>Vancouver, WA 98661       |
| 17 |   |  |
| 18 | KMC Telecom V, Inc.<br>1755 N. Brown Rd.<br>Lawrenceville, GA 30043   | North County Communications Corporation<br>3802 Rosencrans<br>Suite 485<br>San Diego, CA 92110                         |
| 19 |   |  |
| 20 | Level 3 Communications, LLC<br>1025 Eldorado Blvd.<br>Broomfield, CO 80021  | Nos Communications, Inc.<br>dba International Plus<br>4380 Boulder Highway<br>Las Vegas, NV 89121                      |
| 21 |   |  |
| 22 | Lightyear Network Solutions, LLC<br>1901 Eastpoint Parkway<br>Louisville, KY 40223  | Now Communications, Inc.<br>1695 High Street<br>Suite B<br>Jackson, MS 36205   |
| 23 |   |  |
| 24 | Matrix Telecom, Inc.<br>2912 Lakeside Drive<br>Oklahoma, OK 73120   |  |
| 25 |   |  |
| 26 | Max-Tel Communications, Inc.<br>P.O. Box 280<br>Alvord, TX 76225-0280   | NTC Network LLC<br>633 West 5th St.<br>56th Floor<br>Los Angeles, CA 90071   |
| 27 |   |  |

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| 1  | NTERA, Inc.<br>1020 N.W. 163rd Drive<br>Miami, FL 33169  | Regal Diversified, Inc.<br>dba Regal Telephone Company<br>1119 W. Kent<br>Suite J<br>Missoula, MT 59801  |
| 2  |  |  |
| 3  | One Point Communications – Colorado, LLC<br>dba Verizon Avenue<br>Two Conway Park<br>150 Field Dr.<br>Suite 300<br>Lake Forest, IL 60045 | Rhythms Links, Inc.<br>7337 South Revere Parkway<br>Englewood, CO 80112  |
| 4  |  |  |
| 5  |  |  |
| 6  | OnFiber Carrier Services, Inc.<br>11921 N. Mopac Expressway<br>Suite 100<br>Austin, TX 78759   | Rural Network Services, Inc.<br>2205 Keithley Creek Rd.<br>P.O. Box 217<br>Midvale, ID 83645   |
| 7  |  |  |
| 8  |  |  |
| 9  | Orbitcom, Inc.<br>1701 N. Louise Ave.<br>Sioux Falls, SD 57107   | RuralWest-Western Rural Broadband, Inc.<br>20717 N. 83rd Place<br>Scottsdale, AZ 85255   |
| 10 |  |  |
| 11 | Pac-West Telecomm, Inc.<br>1776 W. March Ln<br>suite 250<br>Stockton, CA 95207   | SanTrac Technologies, Inc.<br>P.O. Box 535<br>Glendale, AZ 85311<br>SBC Long Distance, Inc.<br>5850 W. Las Positas Blvd.<br>Pleasanton, CA 94588 |
| 12 |  |  |
| 13 | Payroll Advance, Inc.<br>dba The Phone Connection<br>808 S. Baker St.<br>Mountain Home, AR 72653   | ServiSense.com, Inc.<br>180 Wells Avenue<br>Suite 450<br>Newton, MA 02459-3302   |
| 14 |  |  |
| 15 |  |  |
| 16 | Preferred Carrier Services<br>dba Phones For All / Teléfonos Para Todos<br>14681 Midway Rd, Ste 105<br>Addison TX 75001                  | Southwest Metro Communications, Inc.<br>1850 McCulloch Blvd.<br>Suite C1-B<br>Lake Havasu City, AZ 86403   |
| 17 |  |  |
| 18 | Premiere Network Services, Inc.<br>1510 N. Hampton Road<br>Suite 120<br>DeSoto, TX 75115   | Southwestern Telephone Company, Inc.<br>P.O. Box 5158<br>Madison WI 53705  |
| 19 |  |  |
| 20 |  |  |
| 21 | QuantumShift Communications, Inc.<br>126 Alcosta Blvd<br>Suite 418<br>San Ramon, CA 94583  | Sprint Communications Company, L.P.<br>6391 Sprint Parkway, MS: Z2400<br>Overland Park, KS 66251   |
| 22 |  |  |
| 23 | Qwest Communications Corporation<br>1801 California St.<br>Rm. 1240<br>Denver, CO 80202  | Sprint Spectrum LP<br>dba Sprint PCS<br>4900 Main Street<br>12th Floor<br>Kansas City, MO 64112  |
| 24 |  |  |
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|----|---|---|
| 1  | Syniverse Networks, Inc.<br>dba TSI Telecommunication Network<br>Services<br>One Tampa Center<br>Suite 700<br>Tampa, FL 33602 | Tri-M Communications, Inc.<br>dba TMC Communications<br>820 State St.<br>5th Floor<br>Santa Barbara, CA 93101             |
| 2  |   |   |
| 3  |   |   |
| 4  | Talk America, Inc.<br>6805 Route 202<br>New Hope, PA 18938  | Trinsic Communications, Inc.<br>601 South Harbour Island Blvd.<br>Suite 220<br>Tampa, FL 33602                            |
| 5  |   |   |
| 6  | TCG Phoenix<br>6554 S. Zeno Ct.<br>Aurora, CO 80016   | UCN, Inc.<br>14870 S. Pony Express Dr.<br>Bulffdale, UT 84065   |
| 7  |   | United States Telecommunications, Inc.<br>5251 110th Avenue North<br>Clearwater, FL 33760                                 |
| 8  | Tel West Communications, LLC<br>P.O. Box 94447<br>Seattle, WA 98124   |   |
| 9  |   | Valley Connections, LLC<br>P.O. Box 970<br>Wilcox, AZ 85644   |
| 10 | TelLogic<br>dba Quality Telephone<br>370 N. Market Street<br>Dallas, TX 75202   |   |
| 11 |   | Vanion Telecom, Inc.<br>2 North Cascade<br>Suite 900<br>Colorado Springs, CO 80903  |
| 12 | Telscape Communications, Inc.<br>606 E. Huntington Dr.<br>Monrovia, CA 91016  |   |
| 13 |   | Vartec Telecom, Inc.<br>dba Vartec Telecom (R) / Clear Choice<br>Communications<br>2440 Marsh Ln.<br>Carrollton, TX 75006 |
| 14 | Telseon Carrier Services, Inc.<br>7887 E. Bellevue<br>Suite 600<br>Englewood, CA 80111  |   |
| 15 |   | Verizon Select Services, Inc.<br>6665 N. MacArthur Blvd., HQK02D84<br>Irving, TX 75039                                    |
| 16 | The J. Richard Company<br>dba Live Wire Phone Company<br>4607 E. Molly Ln.<br>Cave Creek, AZ 85331                            |   |
| 17 |   | VIVO-AZ<br>300 E. Maple Rd. - 270<br>Suite 210<br>Birmingham, MI 48009  |
| 18 | Time Warner Telecom of Arizona, LLC<br>10475 Park Meadows Dr.<br>Suite 400<br>Littleton, CO 80124                             |   |
| 19 |   | Western CLEC Corporation<br>3650 131st Avenue SE<br>Bellevue, WA 98006  |
| 20 | Trans National Communications<br>International, Inc.<br>2 Charlesgate West<br>Boston, MA 02215                                |   |
| 21 |   | Wilshire Connection, LLC<br>633 West Street, 56th Flr<br>Los Angeles CA 90071   |
| 22 | TransAmerican Telephone, Inc.<br>209 E. University<br>Denton, TX 76201  |   |
| 23 |   | WilTel Communications, LLC<br>One technology center<br>Mail Drop: TC13B<br>Tulsa, OK 74103                                |
| 24 |   |   |
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1 WilTel Local Network, LLC  
2 dba WLNI, LLC  
3 One Technology Center  
4 Mail Drop: TC-7B  
5 Tulsa, OK 74103

6 XO Communications Services, Inc.  
7 1730 Rhode Island Avenue NW  
8 Suite 1000  
9 Washington, DC 20036

10 Xspedius Management Co. of Pima County,  
11 LLC  
12 14405 Laurel PL  
13 Suite 200  
14 Laurel, MD 20707

15 Xspedius Management Co. Switched  
16 Services, LLC  
17 7125 Columbia Gateway Drive, Suite 200  
18 Columbia, MD 21046

19  
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27  
By 

Zephion Networks Communications, Inc.  
2950 Gallows Road  
Falls Church, VA 22042

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Phoenix, Arizona 85007

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Arizona Corporation Commission  
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Phoenix, Arizona 85007



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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN MAYES  
BARRY WONG

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	<b>DOCKET NO. T-03632A-06-0091</b>
<b>DIECA COMMUNICATIONS DBA COVAD</b>	)	<b>T-03267A-06-0091</b>
<b>COMMUNICATIONS COMPANY,</b>	)	<b>T-04302A-06-0091</b>
<b>ESCHELON TELECOM OF ARIZONA, INC.,</b>	)	<b>T-03406A-06-0091</b>
<b>MCLEODUSA TELECOMMUNICATIONS</b>	)	<b>T-03432A-06-0091</b>
<b>SERVICES, INC., MOUNTAIN</b>	)	<b>T-01051B-06-0091</b>
<b>TELECOMMUNICATIONS, INC., XO</b>	)	
<b>COMMUNICATIONS SERVICE, INC. AND</b>	)	
<b>QWEST CORORATION REQUEST FOR</b>	)	
<b>COMMISSION PROCESS TO ADDRESS KEY</b>	)	
<b>UNE ISSUES ARISING FROM TRIENNIAL</b>	)	
<b>REVIEW REMAND ORDER, INCLUDING</b>	)	
<b>APPROVAL OF QWEST WIRE CENTER</b>	)	
<b>LISTS</b>	)	

---

**TESTIMONY OF**

**DOUGLAS DENNEY**

**ON BEHALF OF ESCHELON TELECOM, INC., DIECA COMMUNICATIONS dba  
COVAD COMMUNICATIONS COMPANY, MOUNTAIN TELECOMMUNICATIONS,  
INC. AND XO COMMUNICATIONS SERVICES, INC.  
(THE "JOINT CLECs")**

**PUBLIC VERSION**

**JULY 28, 2006**

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Douglas Denney. I work at 730 2<sup>nd</sup> Avenue South, Suite 900, in  
4 Minneapolis, Minnesota.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by Eschelon Telecom, Inc., as Senior Manager of Costs and  
7 Policy. My responsibilities include negotiating interconnection agreements,  
8 monitoring, reviewing and analyzing the wholesale costs Eschelon pays to  
9 carriers such as Qwest, and representing Eschelon in regulatory proceedings.

10 **Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL**  
11 **BACKGROUND.**

12 A. I received a B.S. degree in Business Management from Phillips University in  
13 1988. I spent three years doing graduate work at the University of Arizona in  
14 Economics, and then I transferred to Oregon State University where I have  
15 completed all the requirements for a Ph.D. except my dissertation. My field of  
16 study was Industrial Organization, and I focused on cost models and the  
17 measurement of market power. I taught a variety of economics courses at the  
18 University of Arizona and Oregon State University. I was hired by AT&T in  
19 December 1996 and spent most of my time with AT&T analyzing cost models. In

1 December 2004, I was hired by Eschelon Telecom, Inc., where I am presently  
2 employed.

3 I have participated in over 30 proceedings in the 14-state Qwest region. Much of  
4 my prior testimony involved cost models — including the HAI Model, BCPM,  
5 GTE's ICM, U S WEST's UNE cost models, and the FCC's Synthesis Model. I  
6 have also testified about issues relating to the wholesale cost of local service —  
7 including universal service funding, unbundled network element pricing,  
8 geographic deaveraging, and competitive local exchange carrier access rates.  
9 Most recently I have filed testimony regarding Qwest's "non-impaired" wire  
10 center lists and related issues in dockets in Utah, Oregon and Colorado that are  
11 similar to this Arizona docket.

12 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN ARIZONA?**

13 A. Yes. When with AT&T, I testified in multiple phases of docket T-00000A-00-  
14 194. I testified on geographic deaveraging in Phase I. In Phase II, I supported the  
15 HAI Model, which this Commission adopted to set many of the recurring UNE  
16 rates in place today. In Phase IIa, I testified about the switching costs included in  
17 the HAI Model. I also filed testimony in docket T-00000A-03-0369, the original  
18 Triennial Review Order ("TRO") docket, which was stopped after the D.C.  
19 Circuit Court remanded parts of the TRO to the FCC. While with Eschelon, I  
20 presented oral comments in docket T-00000I-04-0749 regarding the current state  
21 of competition.

1 **Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?**

2 A. My testimony addresses a number of concerns relating to impairment designations  
3 and the transition from UNEs to non-TELRIC priced network elements.

4 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

5 A. I provide the Commission with the results of the Joint CLECs' investigation of  
6 Qwest's wire center data. I explain why the Commission should reject Qwest's  
7 methodology for counting fiber-based collocators and switched business access  
8 lines. I present the Joint CLECs' analysis of the data which comports with the  
9 FCC's rules. I also provide a process for addressing future changes in wire center  
10 classifications. Qwest has stated that it intends to block CLEC orders for UNEs  
11 in unimpaired wire centers, and I explain why doing so would violate the FCC's  
12 order. In addition, I show why Qwest's proposed process for "conversions" is  
13 both highly inefficient and overly burdensome to CLECs and why Qwest's  
14 proposed non-recurring charge is inappropriate.

15 Table 1 below summarizes the results of the Joint CLEC investigation in Qwest's  
16 proposed list of "non-impaired" wire center. This table compares Qwest's  
17 proposed wire center designation, with the Joint CLEC's proposed designation  
18 based on a proper review of Qwest's line counts, fiber-based collocation  
19 background information and the Joint CLEC's investigation of these offices.

20

1 **Table 1: Summary of Joint CLEC's Investigation of Qwest's Wire Center List**

2

Wire Center	CLLI(8)	Wire Center Designation	
		Qwest	Joint CLECs
PHOENIX EAST	PHNXAZEA	Tier 1	Tier 2
PHOENIX MAIN	PHNXAZMA	Tier 1, DS3	Tier 1
PHOENIX NORTHEAST	PHNXAZNE	Tier 1	Tier 1
PHOENIX NORTH	PHNXAZNO	Tier 1, DS3	Tier 1, DS3
THUNDERBIRD	SCDLAZTH	Tier 1	Tier 2
TEMPE	TEMPAZMA	Tier 1, DS3	Tier 1
MCCLINTOCK	TEMPAZMC	Tier 1	Tier 3
MESA	MESAAZMA	Tier 2	Tier 3
SCOTTSDALE MAIN	SCDLAZMA	Tier 2	Tier 3
TUCSON MAIN	TCSNAZMA	Tier 2	Tier 2

3  
4  
5  
6  
7

8 **Q. BEFORE WE GET INTO THE SUBSTANCE OF YOUR TESTIMONY,**  
9 **PLEASE DESCRIBE HOW IT IS ORGANIZED.**

10 A. My testimony is divided into seven sections. Following Section I's introduction  
11 and summary, Section II focuses on fiber-based collocation. This section explains  
12 the role that fiber-based collocations plays in the determination of "non-impaired"  
13 status for Qwest wire centers and explains the shortcomings and concerns  
14 regarding the data provided by Qwest. Section III focuses on the switched  
15 business line count data. This section describes how Qwest manipulated the  
16 switch business line count data and as a result erroneously claims "non-impaired"  
17 status in a number of wire centers. Section IV discusses the importance of an  
18 explicit and timely process for Qwest to make future updates to the wire center  
19 list. Section V explains why it is important that Qwest not be able to unilaterally  
20 block orders in wire centers, even after they are determined to be "non-impaired."  
21 Any process for blocking orders should be agreed upon between CLECs and

1 Qwest. Section VI describes the appropriate non-recurring charge (“NRC”) for  
2 the transitioning of facilities from unbundled network elements (“UNEs”) to  
3 alternative arrangements such as special access or private line circuits. This  
4 section describes why the charge Qwest proposes to impose is inappropriate, not  
5 cost-based, and ignores Commission orders regarding non-recurring costs.  
6 Finally, Section VII concludes my testimony.

7 **Q. ARE THERE ANY EXHIBITS TO YOUR TESTIMONY?**

8 A. Yes, there are a number of exhibits to this testimony. The exhibits are described  
9 below:

10 **EXHIBIT DD-1:** Contains a number of Qwest’s non-confidential data responses  
11 to the Joint CLEC data requests. These include:

12 Joint CLEC Data Request (“JCDR”) 01-008: Qwest explains some manual  
13 processes that have been put into place in an attempt to ensure that the  
14 CLEC’s customer’s service is not disrupted during the transition from  
15 UNEs to Private Line/Special Access.

16 JCDR 01-010: Qwest describes another instance where a customer can be  
17 put out of service as a result of Qwest’s UNE transition process.

18 JCDR 01-016: Qwest explains activities the SDC must perform during the  
19 conversion of UNEs to Special Access/Private Line circuits to minimize  
20 the risk of the CLEC’s end-user customer being taken out of service.

21 JCDR 01-017: Qwest further explains activities the SDC must perform  
22 during the conversion of UNEs to Special Access/Private Line circuits to  
23 minimize the risk of the CLEC’s end-user customer being taken out of  
24 service.

25 JCDR 01-018: Qwest explains the role the Designer performs in an  
26 attempt to ensure that the CLEC end-user customer service is not  
27 disrupted as a result of Qwest’s proposed conversion process from UNEs  
28 to Special Access/Private Line circuits.

1 JCDR 01-021: Qwest explains that certain provisioning steps were put in  
2 place during the conversion of UNEs to Special Access/Private Line  
3 circuits in an attempt to protect against disruption of service to the  
4 CLEC's end-user customer.

5 JCDR 01-022: Qwest indicates that prior to April 2005 it did not require a  
6 change in the circuit ID when a CLEC requested a conversion from  
7 Private Line/Special Access to EEL. When Qwest implemented the  
8 change in the circuit ID, Qwest allowed CLECs to opt out of these  
9 changes for their embedded base.

10 JCDR 01-023: Qwest clarifies that in the past when CLECs were given the  
11 option of opting out of having their circuit ID changed, all of the CLECs  
12 selected this option.

13 JCDR 01-025: Qwest indicates that for conversions of Special  
14 Access/Private Line circuits to EEL circuits where the circuit ID did not  
15 change, Qwest was properly managing service performance data for the  
16 PID/PAP reporting.

17 JCDR 01-029: Qwest identifies the amount of the NRC it proposes to  
18 charge CLECs for transitioning circuits from UNEs to Special  
19 Access/Private Lines. In this data response Qwest also mentions that it  
20 plans to update the definition of Design Change Charge in the FCC tariff,  
21 apparently so that it fits Qwest's current proposal for the use of this rate.

22 JCDR 01-032: Qwest verifies that the fiber-based collocations that Qwest  
23 counted were in place as of February 2005, right before the  
24 implementation of the TRRO.

25 JCDR 01-033: Qwest clarifies that it did not count collocation-to-  
26 collocation arrangements where determining the number of fiber-based  
27 collocations in Arizona wire centers.

28 JCDR 01-037: Qwest confirms that CLEC residential lines served over  
29 Qwest's loops were included in Qwest's switched business line counts for  
30 the purposes of determining "non-impaired" status.

31 JCDR 01-038: Qwest confirms that CLEC non-switched lines served over  
32 Qwest's loops were included in Qwest's switched business line counts for  
33 the purposes of determining "non-impaired" status.

34 JCDR 01-040: Qwest describes the types of lines that are included in the  
35 ICONN Database table called "Central Office Find."

1 JCDR 01-041: Qwest describes the loop count data included in the  
2 ICONN Database table titled "Loops in Service."

3 JCDR 01-042: Qwest explains the basis, line counts and/or fiber-based  
4 collocations for each wire center where Qwest claims "non-impaired"  
5 status.

6 JCDR 01-044: contains Qwest's objection to the production of line count  
7 data corresponding with the effective date of the TRRO.

8 **HIGHLY CONFIDENTIAL EXHIBIT DD-2:** A highly confidential chart  
9 detailing adjustments to Qwest's 2003 switched business line count data.

10 **HIGHLY CONFIDENTIAL EXHIBIT DD-3:** Qwest highly confidential  
11 responses to Joint CLEC data requests. These include:

12 JCDR 01-043(d): Highly Confidential Attachment A to part (d) of this  
13 question. This contains a comparison of ARMIS 43-08 switched business  
14 line counts with Qwest's proposed adjusted ARMIS 43-08 switched  
15 business line counts.

16 JCDR 01-043(e): Highly Confidential Attachment B contains CLEC  
17 specific line counts by wire center by type of facility.

18 JCDR 01-043(k): Highly Confidential Attachment C contains Qwest's  
19 calculation of CLEC high capacity line counts by wire center.

20 JCDR 02-046: Highly Confidential Attachment B contains ratios of used  
21 capacity to total capacity of High Cap UNE-P circuits.

22 **EXHIBIT DD-4:** ALJ decision from the State of Washington regarding its Wire  
23 Center investigation.

24 **EXHIBIT DD-5:** A copy of Qwest's TRRO PCAT describing conversions from  
25 UNEs to Special Access/Private Line circuits.

26 **EXHIBIT DD-6:** A Change Request submitted by Qwest demonstrating its  
27 intention to block CLEC orders in wire centers Qwest finds to be "non-impaired."  
28 This can also be found at:  
29 [http://www.qwest.com/wholesale/cmp/cr/CR\\_SCR083005-01.htm](http://www.qwest.com/wholesale/cmp/cr/CR_SCR083005-01.htm).

30 **EXHIBIT DD-7:** A Verizon data response to a Washington Commission bench  
31 request (Question 4, part viii), stating that the methodology Verizon used to count  
32 its own switched business lines "is the same as the methodology used to  
33 determine switched business line counts for ARMIS 43-08."

1       **EXHIBIT DD-8:** A copy of a notice Qwest sends to carriers indicating that  
2       proprietary information related to that carrier will be confidentially provided in a  
3       given docket.

4  
5       **II.     FIBER-BASED COLLOCATION**

6  
7       **Q.     WHAT ROLE DOES THE NUMBER OF FIBER-BASED COLLOCATORS**  
8       **PLAY IN THE DETERMINATION OF WIRE CENTER “NON-**  
9       **IMPAIRMENT” STATUS?**

10      A.     The number of fiber-based collocators in each Qwest wire center plays a crucial  
11      role in determining a wire center’s “non-impairment” status. If a wire center has  
12      three fiber-based collocators, then that wire center is automatically classified as  
13      Tier 2, and if it has four fiber-based collocators automatically classifies a wire  
14      center as Tier 1.<sup>1</sup> Wire centers with four fiber-based collocators and the requisite  
15      number of switched business lines (60,000 for DS1 loops and 38,000 for DS3  
16      loops) are classified as “non-impaired” with respect to DS1 and/or DS3 UNE  
17      loops.<sup>2</sup> Of the ten Arizona wire centers where Qwest claims some level of “non-  
18      impairment,” Qwest relies upon the number of fiber-based collocations in whole

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<sup>1</sup> *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket No. 01-338, WC Docket No. 04-313, 20 FCC Rcd 2533, (2004) (“*TRRO*”) ¶66. The Tier status determines the availability of DS1, DS3 and Dark Fiber UNE transport. DS1 UNE transport is not available between Tier 1 wire centers. DS3 and Dark Fiber UNE transport is not available between wire centers designated as Tier 1 and/or Tier 2. Line counts can also play a role in determining the Tier status of a wire center and did so for most of the wire centers on Qwest’s list for Arizona. Offices with more than 38,000 switch business lines are classified as Tier 1 and offices with between 24,000 and 38,000 business lines are classified as Tier 2.

<sup>2</sup> *TRRO* ¶146.

1 or in part for five offices.<sup>3</sup>

2 **Q. WHAT INFORMATION DID QWEST PROVIDE FOR REVIEWING ITS**  
3 **COUNTS OF FIBER-BASED COLLOCATORS?**

4 A. Highly Confidential Exhibit RT-6 to Ms. Torrence's direct testimony contains a  
5 list of the names of the fiber-based collocators for each office on the Qwest Wire  
6 Center List. Highly Confidential Exhibit RT-4 to *Torrence Direct* contains the  
7 results of Qwest's field verification. Ms. Torrence also provides a list of changes  
8 to Qwest's fiber-based collocation determinations that took place as a result of  
9 Qwest's review of its initial (February 18, 2005) list.<sup>4</sup> Highly Confidential RT-7  
10 to *Torrence Direct*, provides a list of fiber-based collocation disputes and Qwest's  
11 resolution of the dispute. In addition, Qwest provided information as to whether  
12 the carrier affirmatively responded to Qwest's letter asking carriers to verify their  
13 status as a fiber-based collocator.<sup>5</sup>

14

15

16

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<sup>3</sup> See JCDR 01-042.

<sup>4</sup> *Torrence Direct*, page 20, Table 1.

<sup>5</sup> *Torrence Direct*, Highly Confidential Exhibit RT-3. It is important to note that if a CLEC did not respond to Qwest's request for verification of a fiber-based collocation, and most CLECs did not respond, Qwest interpreted this as CLEC agreement, rather than a CLEC dispute. As a result, Qwest counted these CLECs as fiber-based collocators.

1 **Q. WHAT ADDITIONAL INFORMATION DID QWEST SUPPLY**  
2 **REGARDING FIBER-BASED COLLOCATIONS IN ARIZONA?**

3 A. Qwest provided a copy of the letter it sent to CLECs asking CLECs to verify  
4 whether or not they were fiber-based collocators in certain Qwest offices.<sup>6</sup> Qwest  
5 provided the CLEC's responses to this letter<sup>7</sup> and in response to data requests,  
6 Qwest clarified that the fiber-based collocators were operating both in December  
7 2003 and February 2005, eliminating concerns that the data was stale and no  
8 longer accurate as of the date of the impairment determination.<sup>8</sup>

9 **Q. WHAT CONCLUSIONS DO THE JOINT CLECS REACH FROM THEIR**  
10 **REVIEW OF THE QWEST FIBER-BASED COLLOCATION DATA?**

11 A. In most situations the Joint CLECs have been able to confirm Qwest's wire center  
12 designations that relied upon fiber-based collocations. However, based on my  
13 review, I do have a few concerns and corrections to Qwest's "non-impaired" wire  
14 center list.

15 1) Qwest sent a letter to carriers Qwest believed were fiber-based collocators and  
16 asked the carriers to verify whether or not the carrier is a fiber-based collocator.  
17 Qwest gave the carriers two weeks to respond<sup>9</sup> and counted a carrier as a fiber-  
18 based collocator even if the carrier failed to confirm this status. In *Torrence*

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<sup>6</sup> *Torrence Direct*, Exhibit RT-2.

<sup>7</sup> *Torrence Direct*, Highly Confidential Exhibit RT-3.

<sup>8</sup> Exhibit DD-01, Qwest's response to JCDR 01-032.

<sup>9</sup> *Torrence Direct*, page 13, lines 2 - 8.

1        *Direct* Highly Confidential Exhibit RT-2,<sup>10</sup> Qwest indicates that six of twelve  
2 carriers responded to Qwest's letter. In Highly Confidential Exhibit RT-3 to the  
3 Direct Testimony of Ms. Torrence, however, of these six carriers only two  
4 affirmatively confirmed their fiber-based collocations in Arizona. For the other  
5 four responses, one carrier specifically instructs Qwest not to count its  
6 collocations as fiber-based collocations until the carrier has an opportunity to  
7 confirm; two carriers do not address the fiber-based collocations in Arizona, but  
8 do address collocations in other states,, and another carrier's response simply  
9 informs Qwest that it sent its letter to the wrong person. Qwest counted these  
10 four, plus the six that did not respond at all as fiber-based collocators.

11        2) Qwest attempted a field verification of the fiber-based collocations in  
12 question. To do this, Qwest asked its Central Office Technicians and State  
13 Interconnection Manager to verify the fiber-based collocations.<sup>11</sup> The letter  
14 Qwest sent was written in a way that encouraged Qwest employees to error on the  
15 side of finding fiber-based collocations. The letter begins:

16        **[\*\*\*BEGIN CONFIDENTIAL\*\*\*]** [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

<sup>10</sup> See *Torrence Direct*, Highly Confidential Exhibit RT-3.

<sup>11</sup> *Torrence Direct* page 11, lines 15-16.

1 [REDACTED] [\*\*\*END CONFIDENTIAL\*\*\*]<sup>12</sup>

2 This letter casts doubt on whether Qwest's verification process was performed in  
3 an objective manner. In a wire center in Colorado Qwest's field verification  
4 confirmed there was fiber, confirmed the fiber left the Qwest central office and  
5 confirmed the carrier had power. However, this carrier disputed its status as a  
6 fiber-based collocator explaining that it had copper, not fiber. Upon a further  
7 field verification, Qwest agreed that this carrier should not be counted. Though  
8 Qwest eventually correctly designated this carrier in Colorado, it does not change  
9 the fact that the initial field verification found fiber where none existed.

10 Another example that brings doubt to Qwest's field verifications occurs in  
11 Minnesota. Though Qwest claims its list of fiber-based collocators represent  
12 carriers "operating from December 2003 through February 2005"<sup>13</sup> a Minnesota  
13 example involving Eschelon proves that this is not the case. For two wire centers  
14 in Minnesota Qwest counted Eschelon as a fiber-based collocator even though  
15 Eschelon did not have power connected to its equipment on March 11, 2005.  
16 Eschelon was in the process of establishing the collocations as fiber-based  
17 collocations but the collocation sites were not fiber-based collocations "from  
18 December 2003 through February 2005" nor was Eschelon a fiber-based  
19 collocator on March 11, 2005. Despite communicating this fact with Qwest,

<sup>12</sup> See *Torrence Direct*, Confidential Exhibit RT-5.

<sup>13</sup> Exhibit DD-01, JCDR 01-032.

1 Qwest continues to count Eschelon as a fiber-based collocator.

2 3) Upon review of the "Collocation Verification Worksheets,"<sup>14</sup> Qwest counted  
3 carriers as fiber-based collocator, without explanation, even though it appears  
4 Qwest was unable to verify the carriers had power at the BDFB.<sup>15</sup> Qwest states  
5 that the purpose of the spreadsheet was to verify various aspects of the collocation  
6 including an inspection of the name, power, and fiber facilities.

7 4) Qwest clarified that in Arizona it did not count any CLEC-to-CLEC  
8 connections as part of its fiber-based collocations in Arizona.<sup>16</sup> However,  
9 contrary to the *TRRO* Qwest did count such an arrangement in a wire center in  
10 Colorado. When one carrier simply relies upon the fiber of another fiber-based  
11 collocator, it is inappropriate to count both carriers as fiber-based collocators.  
12 Counting both carriers amounts to double counting. This does not impact the  
13 status of any current Arizona wire centers on Qwest's "non-impaired" list, but  
14 could play a role in the future as Qwest updates the list.

15 47 C.F.R § 51.5 defines a fiber-based collocator as follows:

16 A fiber-based collocator is any carrier, unaffiliated with the incumbent  
17 LEC, that maintains a collocation arrangement in an incumbent LEC wire  
18 center, with active electrical power supply, and operates a fiber-optic cable  
19 or comparable transmission facility that (1) terminates at a collocation

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<sup>14</sup> See *Torrence Direct*, Highly Confidential Exhibit RT-3.

<sup>15</sup> See *Torrence Direct*, Highly Confidential RT-4 the worksheets for Phoenix Main, Phoenix Northeast, Phoenix North, and Tempe. Note that this does not impact the classification of these wire centers as whether or not these carriers were counted these offices all have four or more fiber-based collocators.

<sup>16</sup> Exhibit DD-1, JCDR 01-033.

1 arrangement within the wire center; (2) leaves the incumbent LEC wire  
2 center premises; and (3) is owned by a party other than the incumbent  
3 LEC or any affiliate of the incumbent LEC, except as set forth in this  
4 paragraph. Dark fiber obtained from an incumbent LEC on an  
5 infeasible right of use basis shall be treated as non-incumbent LEC  
6 fiber-optic cable. Two or more affiliated fiber-based collocators in a  
7 single wire center shall collectively be counted as a single fiber-based  
8 collocator. For purposes of this paragraph, the term affiliate is defined by  
9 47 U.S.C. § 153(1) and any relevant interpretation in this Title.

10 Paragraphs 93 through 102 of the *TRRO* explains the FCC's rationale for this  
11 definition. Paragraph 95 states, "Our fiber-based collocation test captures  
12 intermodal competitors' transport facilities..." Paragraph 101 states,  
13 "Additionally, we find that fiber-based collocation provides a reasonable proxy  
14 for where significant revenue opportunities exist for competitive LECs..." In  
15 paragraph 102 the FCC first defines fiber-based collocators. Footnote 292 to this  
16 paragraph clarifies the conditions that must exist in order for a carrier to be  
17 considered a fiber-based collocator: "We find that when a company has  
18 collocation facilities connected to fiber transmission facilities obtained on an  
19 infeasible right of use (IRU) basis from another carrier, including the  
20 incumbent LEC, these facilities shall be counted for purposes of this analysis and  
21 shall be treated as non-incumbent LEC fiber facilities."

22 A CLEC-to-CLEC connection does not fall within the FCC's definition of a fiber-  
23 based collocator and should not be counted as separate fiber-based collocations.

1 5) [\*\*\* BEGIN HIGHLY CONFIDENTIAL] [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED] [END HIGHLY  
15 CONFIDENTIAL \*\*\*]

16 Q. HOW DID YOU MAKE YOUR DETERMINATION AS TO WHETHER A  
17 WIRE CENTER REACHES TIER 1 OR TIER 2 STATUS?

18 A. First, I looked at the carriers Qwest claimed were fiber-based collocators in each  
19 office and in some cases attempted to contact these carriers to see if they could

<sup>17</sup> Though this discussion relates to public documents, the material is marked highly confidential because the discussion along with the proposed changes to Qwest's wire center list, would reveal the identity of fiber-based collocators in certain Qwest offices.

<sup>18</sup> WC Docket No. 05-065, *Memorandum Opinion and Order*, October 31, 2005, Appendix F (conditions).

1           verify their status.<sup>19</sup> Second, I looked at the information Qwest provided, such as  
2           whether the carrier affirmatively told Qwest it was a fiber-based collocator, and I  
3           reviewed the results of Qwest's field verification. Despite misgivings about the  
4           field verification process, if these results did not contradict any of the other  
5           information in my possession, I tentatively counted these carriers as fiber-based  
6           collocators.

7           **Q.   WHAT CONCLUSIONS CAN WE REACH WITH REGARD THE TIER**  
8           **DESIGNATIONS OF THE WIRE CENTERS QWEST PROPOSES TO**  
9           **PLACE ON THE WIRE CENTER LIST IN ARIZONA?**

10          A.   Table 2 below summarizes my review of the fiber-based collocation information  
11          provided by Qwest.

---

<sup>19</sup> Because only four fiber-based collocators are necessary for Tier 1 status, I did not need to contact each carrier in each office. In addition, for some carriers, I focused my inquiry to specific wire centers where there were questions based on the information Qwest provided.

1 **Table 2: Joint CLEC Verification of Qwest's Wire Center List based on**  
2 **Fiber-Based Collocations**

3

Wire Center	CLLI(8)	Wire Center Designation	
		Qwest	Joint CLECs
PHOENIX EAST	PHNXAZEA	Tier 1	Tier 2
PHOENIX MAIN *	PHNXAZMA	Tier 1	Tier 1
PHOENIX NORTHEAST	PHNXAZNE	Tier 1	Tier 1
PHOENIX NORTH *	PHNXAZNO	Tier 1	Tier 1
TEMPE *	TEMPAZMA	Tier 1	Tier 1

4

5

6

7

8

\* For these three wire centers, Qwest also claims they meet "non-impaired" status for DS3 loops. In order to meet this status both a minimum number of fiber-based collocations and line counts are required. This section of the testimony only reviews the fiber-based collocation data. A discussion of DS3 loops is included in the discussion of line counts for these two wire centers.

9 If the Joint CLECs receive additional information regarding the fiber-based  
10 collocations in the offices where there are disputes, the Joint CLECs will update  
11 the status of these wire centers.

12 **III. SWITCHED BUSINESS LINE COUNTS**

13

14 **Q. DOES QWEST PROPERLY RELY UPON SWITCHED BUSINESS LINES**  
15 **TO DETERMINE "NON-IMPAIRMENT" FOR ARIZONA WIRE**  
16 **CENTER(S)?**

17 A. No, Qwest attempts to use business line count data to justify its classification of  
18 eight of the ten wire centers on Qwest's list. These offices are Phoenix Main,  
19 Phoenix North, Thunderbird, Tempe, McClintock, Mesa, Scottsdale Main and  
20 Tucson Main.<sup>20</sup> For Phoenix Main, Phoenix North and Tempe, Qwest is seeking  
21 "non-impaired" status for DS3 UNE loops.

1 The FCC defines a Business Line as follows:<sup>21</sup>

2 A business line is an incumbent LEC-owned switched access line used to  
3 serve a business customer, whether by the incumbent LEC itself or by a  
4 competitive LEC that leases the line from the incumbent LEC. The  
5 number of business lines in a wire center shall equal the sum of all  
6 incumbent LEC business switched access lines, plus the sum of all UNE  
7 loops connected to that wire center, including UNE loops provisioned in  
8 combination with other unbundled elements. Among these requirements,  
9 business line tallies (1) shall include only those access lines connecting  
10 end-user customers with incumbent LEC end-offices for switched  
11 services, (2) shall not include non-switched special access lines, (3) shall  
12 account for ISDN and other digital access lines by counting each 64 kbps-  
13 equivalent as one line. For example, a DS1 line corresponds to 24 64-  
14 kbps-equivalents, and therefore to 24 business lines.

15 Qwest makes a number of errors that render its line counts for these five wire  
16 centers unreliable. Qwest's errors are: (1) Qwest uses line count data from the  
17 wrong time period; (2) Qwest manipulates its ARMIS data in a way that  
18 overstates its own line counts; (3) Qwest erroneously includes CLEC residential  
19 and non-switched lines in its switched business line count; and (4) Qwest  
20 inappropriately counts DS1 and DS3 loops as total potential capacity rather than  
21 total capacity in use.

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<sup>20</sup> See JCDR 01-044.

<sup>21</sup> 47 C.F.R. § 51.5, Terms and Definitions, Business Line.

1           **A.    LINE COUNT DATA SHOULD BE REFLECTIVE OF THE**  
2           **EFFECTIVE DATE OF THE TRRO**  
3

4           **Q.    DID QWEST USE LINE COUNT DATA FROM MARCH 2005, THE**  
5           **EFFECTIVE DATE OF THE TRRO, TO DETERMINE THE**  
6           **IMPAIRMENT STATUS OF ARIZONA WIRE CENTERS?**

7           A.    Surprisingly, no. Qwest instead chose to use line counts from December 2003,  
8           more than a year prior to the effective date of the TRRO (March 11, 2005). The  
9           FCC implemented new rules regarding DS1 and DS3 UNE loop availability that  
10          took effect as of the effective date of the TRRO. C.F.R. Title 47 § 51.319(a)(4)  
11          states “an incumbent LEC shall provide a requesting telecommunications carrier  
12          with nondiscriminatory access to a DS1 loop on an unbundled basis to any  
13          building not served by a wire center with at least 60,000 business lines and at least  
14          four fiber-based collocators.” Nowhere in the rule or in the TRRO is it stated, or  
15          even suggested, that the count of business lines and fiber-based collocations  
16          should be made from data collected over a year prior to the effective date of the  
17          TRRO. In fact, the TRRO states “The BOC wire center data that we analyze in  
18          this Order is based on ARMIS 43-08 business lines,” then specifically refers to  
19          December 2004 ARMIS data.<sup>22</sup>

20          If the FCC had intended to permit the use of data that was not contemporaneous  
21          with the rule, the rule would have said “any building *ever* served by a wire center

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<sup>22</sup> TRRO ¶ 105. Footnote 303 to Paragraph 105 begins “See Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, *FCC Report 43-08 Report Definition* (Dec. 2004)...”. (emphasis

1 with at least 60,000 business lines.” The FCC adopted rules on March 11, 2005, to  
2 determine whether CLECs were impaired without access to DS1 and DS3 loops  
3 (and transport). The FCC requested ILECs provide the data to the FCC on  
4 February 4, 2005, and described the data such as line counts as “readily  
5 ascertainable.”<sup>23</sup> There is no reason to use stale data collected many months  
6 earlier for such a critical determination.

7 **Q. HAVE ANY OF THE OTHER RBOCS UPDATED LINE COUNTS TO BE**  
8 **MORE REFLECTIVE OF THE IMPLEMENTATION DATE OF THE**  
9 **TRRO?**

10 A. Yes, Bell South updated its line count information to December 2004, the period  
11 of the ARMIS filing most closely aligned with the effective date of the TRRO.<sup>24</sup>  
12 In addition, the Michigan Commission found that “The age of the data must be  
13 close enough in time to reflect conditions at the time that SBC claims that the  
14 wire center is no longer impaired. In this case, the Commission finds that SBC  
15 should have used the 2004 ARMIS data, which was available, even if not fully  
16 edited and incorporated in a report to the FCC.”<sup>25</sup> The Colorado Staff witness,

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added).

<sup>23</sup> Letter from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, FCC to Gary R. Lytle, Senior Vice President, Federal Relations, Qwest, WC Docket No. 04-313 and CC Docket No. 01-338 (Feb. 4, 2005).

<sup>24</sup> *In the Matter of Proceeding to Consider Amendments to Interconnection Agreements Between BellSouth Telecommunications, Inc. and Competing Local Providers Due to Changes of Law*, Order Concerning Changes of Law, Docket No. P-55, SUB 1549, March 1, 2006, page 38. (“[BellSouth] [w]itness Tipton noted that, recently, BellSouth has updated its wire center results to include December 2004 ARMIS data and the December 2004 UNE loop and UNE-P data so that the most current information is used to establish the wire centers that satisfy the FCC’s tests.”).

<sup>25</sup> *In the Matter, on the Commission’s Own Motion, to Commence a Collaborative Proceeding to Monitor*

1 Ms. Notarianni, also recommends Qwest utilize 2004 line counts stating, “Staff  
2 believes that the use of 2003 data is inappropriate and does not reflect an accurate  
3 view of the number of business lines as of the March 11, 2005 effective date of  
4 the TRRO...”<sup>26</sup>

5 **Q. DID YOU EVALUATE QWEST’S SWITCHED BUSINESS LINE COUNT**  
6 **DATA FROM DECEMBER 2004?**

7 A. The Joint CLECs requested this data from Qwest, but Qwest refused to provide  
8 such data to CLECs, claiming the data irrelevant for this proceeding.<sup>27</sup> The data  
9 is unquestionably relevant, and the Commission should view Qwest’s refusal to  
10 provide it with suspicion. If both the 2004 data and the 2003 data support Qwest  
11 “non-impairment” claims, then the Joint CLECs would be able to confirm the  
12 status of these wire centers and avoid an unnecessary dispute.<sup>28</sup> Indeed, just this  
13 week, the administrative law judge in the sister wire center docket pending before  
14 the Oregon Public Utility Commission granted the Joint CLECs motion to compel  
15 Qwest to produce the 2004 data so it could be included in the record for the full  
16 Commission’s consideration. The ALJ concluded that the data is, “reasonably

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*and Facilitate Implementation of Accessible Letters issued by SBC MICHIGAN and VERIZON, Case No. U-14447, Order, September 20, 2005, page 5.*

<sup>26</sup> Colorado Docket No. 06M-080T, *Answer Testimony and Exhibits of Lynn N V Notarianni Staff of the Colorado Public Utilities Commission (“Notarianni CO Staff Answer Testimony”)*, July 24, 2006, page 13, lines 12 – 15.

<sup>27</sup> See Exhibit DD-01, JCDR 01-044.

<sup>28</sup> As discussed below, even the 2003 line count data supplied by Qwest does not support all of Qwest’s “non-impairment” claims.

1           calculated to lead to the discovery of admissible evidence.”<sup>29</sup>

2       **Q.    IS THERE ANY PUBLICLY AVAILABLE INFORMATION THAT**  
3       **LEADS YOU TO BELIEVE THAT QWEST’S SWITCHED BUSINESS**  
4       **LINE COUNT DATA DOES NOT SUPPORT QWEST’S FINDINGS OF**  
5       **NON-IMPAIRMENT?**

6       A.    Yes, although the detailed data necessary to make a precise determination of  
7       switched business line counts is not available, data does exist that casts doubt  
8       upon Qwest’s current claims. Qwest’s ICONN database, publicly available on  
9       Qwest’s website,<sup>30</sup> contains two reports that, in conjunction, create doubt  
10       regarding the status of certain Qwest wire centers.

11       The first report, titled “Loop Data,” lists the total number of loops in service by  
12       wire center. Qwest defines loops in service as “Loops/pairs that are active and  
13       carrying traffic (i.e., working pairs) from assignable OSP feeder terminals.”<sup>31</sup>

14       This count contains both business and residential lines. The second report, titled  
15       “Central Office Find,” provides the number business and residence access lines.

16       We can obtain a proxy for the number of Qwest loops used to serve business  
17       customers by subtracting residential lines from the total number of loops in

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<sup>29</sup> See, <http://edocs.puc.state.or.us/efdocs/HDA/um1251hda14546.pdf>

<sup>30</sup> See <http://www.qwest.com/iconn/>.

<sup>31</sup> See <http://www.qwest.com/cgi-bin/iconn/dlc.cgi>.

1 service. Table 3 below shows this calculation for the eight wire centers where  
2 Qwest claims some level of non-impairment based on lines.

1           **Table 3: Publicly Available “Current” Line Count Data**

Wire Center	CLLI(8)	Loops in Service	Bus NAL (2005)	Res NAL (2005)	Max Bus Loops in Service
		(a)	(b)	(c)	(d) = (a) - (c)
PHOENIX MAIN	PHNXAZMA	43,932	37,192	10,614	37,192
PHOENIX NORTH	PHNXAZNO	59,927	29,790	19,356	40,571
THUNDERBIRD	SCDLAZTH	50,095	28,660	21,875	28,660
TEMPE	TEMPAZMA	39,077	24,817	14,371	24,817
MCCLINTOCK	TEMPAZMC	53,381	19,713	31,077	22,304
MESA	MESAAZMA	57,075	20,234	33,661	23,414
SCOTTSDALE MAIN	SCDLAZMA	42,545	20,925	23,030	20,925
TUCSON MAIN	TCSNAZMA	45,476	27,951	17,981	27,951

2

3           Table 3 above suggests that based on current line count data there is some support  
4           for Tier 1 status for the Phoenix North wire center. The line counts in this wire  
5           center, combined with the fiber-based collocation data, support Qwest’s claim of  
6           “non-impairment” for DS3 loops. This publicly available line count data supports  
7           the classification of Phoenix Main, Thunderbird, Tempe, and Tucson Main as Tier  
8           2 offices.<sup>32</sup> Based on the line counts above, the other three offices would be  
9           classified as Tier 3.<sup>33</sup>

10           Note that although the “Central Office Find” table lists business line counts,  
11           Qwest has indicated that Qwest does not include all of the loops that Qwest sells  
12           to CLECs and thus the data cannot be relied upon for determining the “non-

<sup>32</sup> Note that the fiber-based collocation data supports a Tier 1 status for Phoenix Main and Tempe.

<sup>33</sup> As previously discussed, the number of fiber based collocators can independently classify an offices as Tier 1 or Tier 2. However, the fiber-based collocation data, in this instance also supports a Tier 3 designation.

1           impaired” status of a wire center.<sup>34</sup> As a result, in order to estimate the number of  
2           business loops in a wire center I chose the maximum of the Business Line data  
3           (column b) and the difference between the Loops in Service (column a) less  
4           Residential Lines (column c).

5       **Q.    SHOULD THE DATA DESCRIBED ABOVE BE USED TO DETERMINE**  
6       **THE “NON-IMPAIRED” STATUS OF QWEST’S WIRE CENTERS IN**  
7       **ARIZONA?**

8       A.    Ideally Qwest would provide December 2004 data for review. The data presented  
9           above demonstrates the importance of reviewing data contemporaneous with the  
10          TRRO. The data shows significant doubts as to Qwest’s claims based on  
11          switched business line count data, but final determinations should be based upon  
12          line counts developed in response to the FCC’s definition of switched business  
13          lines consistent with the effective date of the TRRO. CLECs have requested this  
14          data from Qwest, but as mentioned previously Qwest has refused to provide this  
15          data to CLECs. Qwest has claimed that both the datasets from the ICONN  
16          database are not appropriate to use,<sup>35</sup> but absent Qwest’s actual data, this data is  
17          the best available information available to the Joint CLECs’ to use to review  
18          Qwest’s claims regarding whether wire centers have actually met the “non-  
19          impaired” status as Qwest has claimed.

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<sup>34</sup> Exhibit DD-01, JCDR 01-040.

<sup>35</sup> See Exhibit DD-01, JCDR 01-040 and JCDR 01-041.

1   **Q.    IS THE TIMING OF THE COUNTS OF SWITCHED BUSINESS LINES**  
2           **AND FIBER-BASED COLLOCATORS IMPORTANT AS QWEST**  
3           **MAKES UPDATES TO ITS “NON-IMPAIRED” WIRE CENTER LIST IN**  
4           **THE FUTURE?**

5    A.    Yes, the issue of the appropriate time period to review both the switched business  
6           line count and the fiber-based collocation data is crucial as updates are made to  
7           Qwest’s Wire Center List. As Qwest makes updates to its list, this Commission  
8           should make clear that Qwest should use data that is contemporaneous with  
9           Qwest’s claim for “non-impaired” status. For example, suppose there exists a  
10          wire center today that has four fiber-based collocators, but fewer than 60,000  
11          lines. Suppose that the wire center surpasses 60,000 lines in the future, but by this  
12          time there are only three fiber-based collocators. Qwest should not be allowed to  
13          choose line counts from the present and fiber-based collocators from the past.  
14          The determination of “non-impaired” status should be made at the point in time  
15          that Qwest is claiming an office is “non-impaired,” not from a combination of  
16          counts from different time periods that best suits Qwest.

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1           **B.    QWEST'S SWITCHED BUSINESS LINE COUNTS SHOULD BE**  
2           **COUNTED CONSISTENT WITH ARMIS 43-08**  
3

4    **Q.    DID QWEST USE ITS ARMIS DATA TO CALCULATE ITS SWITCHED**  
5    **BUSINESS ACCESS LINES AS DIRECTED BY THE FCC?**

6    A.    No. Qwest started with its ARMIS data, but manipulated this data in a manner  
7    inconsistent with the TRRO. The result of Qwest's manipulation is a significant  
8    overstatement of its switched business line counts.

9           Paragraph 105 of the TRRO describes the methodology for counting business  
10          lines:

11                   Moreover, as we define them, business line counts are an objective set of  
12                   data that incumbent LECs already have created for other regulatory  
13                   purposes. **The BOC wire center data that we analyze in this Order is**  
14                   **based on ARMIS 43-08 business lines**, plus business UNE-P, plus UNE-  
15                   loops. We adopt this definition of business lines because it fairly  
16                   represents the business opportunities in a wire center, including business  
17                   opportunities already being captured by competing carriers through the  
18                   use of UNEs. Although it may provide a more complete picture to  
19                   measure the number of business lines served by competing carriers  
20                   entirely over competitive loop facilities in particular wire centers, such  
21                   information is extremely difficult to obtain and verify. Conversely, by  
22                   **basing our definition in an ARMIS filing required of incumbent**  
23                   **LECs**, and adding UNE figures, which must also be reported, we can be  
24                   confident in the accuracy of the thresholds, and a simplified ability to  
25                   obtain the necessary information. (Footnotes omitted; emphasis added).

26

1 ARMIS 43-08 line counts are counted in terms of 4 kHz equivalents for analog  
2 circuits and 64 kbps equivalents for digital circuits.<sup>36</sup>

3 Qwest, instead of relying directly upon the ARMIS data as directed by the FCC,  
4 adjusted the counts for digital lines to include 64 kbps capacity rather than 64  
5 kbps equivalents.<sup>37</sup> For example, if Qwest served a business customer with a  
6 DS1 circuit and the customer was using 12 lines of the DS1s capacity, for ARMIS  
7 43-08 purposes the business line count would be 12. In this case, Qwest has  
8 counted those lines as 24, even though only 12 lines are being used. This is  
9 clearly at odds with the intent of the TRRO.

10 **Q. DID NOT QWEST CITE A NUMBER OF COMMISSION ORDERS**  
11 **SUPPORTING ITS VIEW OF HOW TO COUNT QWEST SWITCHED**  
12 **BUSINESS LINES?**

13 A. No, Qwest's testimony is misleading in this regard. Mr. Teitzel states: "Qwest  
14 has utilized the same approach that commissions in other states have examined  
15 and found to be in compliance with *TRRO* requirements."<sup>38</sup> Of the eleven states  
16 ruling on this issue, only three have decisions that support Qwest's method for  
17 counting ARMIS lines. It should be noted that SBC and Verizon did not take the

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<sup>36</sup> The ARMIS instructions for 2005 can be found at <http://www.fcc.gov/wcb/armis/documents/2005PDFs/4308c05.pdf>. Note the relevant part of the instructions regarding the counting of lines did not change from 2003 to 2005.

<sup>37</sup> *Teitzel Direct*, page 4, line 17 through page 5, line 2.

<sup>38</sup> *Id.* at 9, lines 7 - 9.

1 same extreme position as Qwest, and instead proposed to count ARMIS 43-08  
2 business lines exactly as they are counted and reported to the FCC.

3 The Direct testimony of SBC witness Thomas Sowash clearly states that SBC did  
4 not manipulate the ARMIS data when counting SBC switched business lines. An  
5 excerpt from his testimony illustrates this point:<sup>39</sup>

6 **“Q. WHAT METHODOLOGY WAS USED TO DETERMINE**  
7 **THE BUSINESS SWITCHED ACCESS LINE COUNTS**  
8 **THAT SBC TEXAS UTILIZED TO MAKE ITS WIRE**  
9 **CENTER DESIGNATIONS?**

10  
11 A. SBC Texas used the identical methodology established for the  
12 determination of line counts for the FCC Automated Reporting  
13 Management Information System (“ARMIS”) ARMIS 43-08  
14 report.”  
15

16 Like SBC, Verizon also proposes using the 43-08 ARMIS data without  
17 manipulation.<sup>40</sup>

18 **Q. HAVE ANY STATES IN THE QWEST REGION ISSUED DECISIONS ON**  
19 **THIS ISSUE?**

20 A. Yes, recently the ALJ in Washington found that Qwest’s manipulation of the 43-  
21 08 ARMIS data was inappropriate.<sup>41</sup> The ALJ found in paragraphs 33 and 34:

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<sup>39</sup> *Post-Interconnection Dispute Resolution Proceeding Regarding Wire Center UNE Declassification*, PUC Docket No. 31303, Direct Testimony of SBC Witness Thomas Sowash, November 15, 2005, page 6, lines 1 – 6. ([http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/31303\\_65\\_496422.PDF](http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/31303_65_496422.PDF))

<sup>40</sup> See Exhibit DD-7, containing Verizon’s response to a Washington Commission bench request confirming that they did not manipulate the ARMIS 43-08 data. Note that Bell South proposes manipulating the 43-08 ARMIS data in a manner similar to Qwest.

1 “The FCC does not discuss modifying the ILEC-owned business lines  
2 reported in ARMIS 43-08 data, referring to the data as “already ... created  
3 for other regulatory purposes,” and providing a “simplified ability to  
4 obtain the necessary information.”

5 The FCC’s rule must be read consistently with the FCC’s statements in the  
6 TRRO. To that end, the FCC’s requirements for calculating, or tallying,  
7 the total number of business lines serving a wire center are most  
8 reasonably applied in part to ILEC-owned switched access lines, and in  
9 part to UNE loops. The first two listed requirements (i.e., that the access  
10 lines connect only actual customers and the number not include non-  
11 switched special access lines) are already considered in the switched  
12 access lines ILECs report to the FCC in ARMIS 43-08 data.”

13 Further, testimony on behalf of Staff in Colorado and the Division of Public  
14 Utilities in Utah, both recommend against Qwest’s adjustments to the ARMIS  
15 data. Ms. Notarianni in Colorado writes, “Staff does not agree that the ARMIS  
16 43-08 business line counts should be adjusted to include total potential  
17 channelized capacity rather than capacity in use (e.g., counting a DS1 as 24  
18 individual lines whether or not the 24-lines are actually in use).”<sup>42</sup> Mr. Coleman  
19 in Utah testifies, “The Division recommends that the Commission should use the  
20 actual Qwest business lines reported in ARMIS 43-08 without adjusting for  
21 digital lines.”<sup>43</sup>

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<sup>41</sup> Washington is the only state in the Qwest region to issue an order in the wire center proceedings. The Washington ALJ order is attached to this testimony as Exhibit DD-4.

<sup>42</sup> *Notarianni CO Staff Answer Testimony*, page 13, lines 16 – 19.

<sup>43</sup> Utah Docket No. 06-049-40, *Direct Testimony of Casey J. Coleman, Division of Public Utilities, Department of Commerce*, May 26, 2006, page 4, lines 96 – 97.

1           **C.    CLEC SWITCHED BUSINESS LINES SHOULD NOT INCLUDE**  
2           **RESIDENTIAL OR NON-SWITCHED LINES**  
3

4           **Q.    FOR THE PURPOSES OF DETERMINING THE “IMPAIRMENT”**  
5           **STATUS OF A WIRE CENTER, THE FCC DEFINED A BUSINESS LINE**  
6           **AS AN ILEC-OWNED SWITCHED ACCESS LINE USED TO SERVE A**  
7           **BUSINESS CUSTOMER.<sup>44</sup>    DOES QWEST COUNT LINES**  
8           **CONSISTENTLY WITH THE FCC DEFINITION?**

9           A.    No, despite the clear language of the FCC’s definition, Qwest includes some  
10           residential and non-switched lines in its count of switched business lines.<sup>45</sup> The  
11           first sentence of the FCC’s business line definition states “A business line is an  
12           **incumbent LEC-owned switched access line used to serve a business**  
13           **customer**, whether by the incumbent LEC itself or by a competitive LEC that  
14           leases the line from the incumbent LEC.”<sup>46</sup> Despite the definition, when a CLEC  
15           leases a loop from Qwest that is not part of a UNE-P combination, Qwest includes  
16           this loop in its count of business lines, even if the CLEC is serving a residential  
17           customer with the loop. Mr. Teitzel states, “Qwest did not attempt to ‘remove’  
18           UNE loops that may be used to serve residential customers.”<sup>47</sup> In addition, when  
19           the CLEC leases a loop from Qwest, Qwest includes this loop in its count of  
20           business lines whether or not the CLEC uses this loop for switched services. In

---

<sup>44</sup> 47 C.F.R. § 51.5 Terms and Definitions, Business Line.

<sup>45</sup> See Exhibit DD-01, JCDR 01-037 and JCDR 01-038.

<sup>46</sup> 47 C.F.R. § 51.5 Terms and Definitions, Business Line. (emphasis added).

<sup>47</sup> *Teitzel Direct*, page 10, lines 14 - 15.

1 response to a Joint CLEC data request Mr. Brigham confirms, "Qwest did not  
2 attempt to remove non-switched loop counts from the CLEC UNE loop data."<sup>48</sup>

3 **Q. COULD QWEST HAVE EASILY REMOVED RESIDENTIAL LOOPS**  
4 **FROM ITS SWITCHED BUSINESS LINE COUNTS?**

5 A. Yes. When a CLEC orders a loop from Qwest there is a mandatory field on the  
6 LSR where the CLEC indicates whether the loop will be used to serve a business,  
7 residence or government customer. Qwest should have the information in its  
8 possession to remove residential loops from the switched business line counts.

9 **Q. WHAT IS QWEST'S BASIS FOR INCLUDING RESIDENTIAL AND**  
10 **NON-SWITCHED LINES IN ITS SWITCHED BUSINESS LINE COUNT?**

11 A. Qwest reads part of the business line count definition in isolation from the rest of  
12 the definition in order to include that CLEC residential and non-switched lines  
13 served via Qwest unbundled loops should be included in the switched business  
14 line count.

15 The FCC business line definition consists of four sentences. The first sentence  
16 introduces the definition and reads:

17 A business line is **an incumbent LEC-owned switched access line used**  
18 **to serve a business customer**, whether by the incumbent LEC itself or by  
19 a competitive LEC that leases the line from the incumbent LEC.  
20 (Emphasis added).

---

<sup>48</sup> See Exhibit DD-01, JCDR 01-038.

1           The second sentence provides further information regarding the count of business  
2           lines:

3                     The number of business lines in a wire center shall equal the sum of all  
4                     incumbent LEC business switched access lines, plus **the sum of all UNE**  
5                     **loops connected to that wire center**, included UNE loops provisioned in  
6                     combination with other unbundled elements. (Emphasis added).

7           Qwest reads this second sentence as though the first and third sentences do not  
8           exist and comes to the conclusion that business switched access lines includes “all  
9           UNE loops.”

10           The third sentence clarifies the second sentence and reads:<sup>49</sup>

11                     Among these requirements, business line tallies (1) **shall include only**  
12                     **those access lines** connecting end-user customers with incumbent LEC  
13                     end-offices **for switched services**, (2) **shall not include non-switched**  
14                     **special access lines**, (3) shall account for ISDN and other digital access  
15                     lines by counting each 64 kbps-equivalent as one line. (emphasis added).

16           Qwest ignores the qualifications and relies upon the statement “all UNE loops” to  
17           mean that despite the rest of the FCC language and the methodology for counting  
18           Qwest’s lines, CLEC lines should include residential as well as non-switched  
19           services. Mr. Brigham states “The FCC clearly specifies that “LEC business  
20           switched access lines” must be included in an RBOC’s line count, but it excludes

---

<sup>49</sup> The final sentence deals with the methodology for counting digital lines and will be discussed in part C below.

1 the “business” qualifier in its mandate regarding the treatment of UNE loops in  
2 the count.”<sup>50</sup>

3 Qwest’s interpretation does not make sense.

4  
5 **D. QWEST’S 2003 DATA DOES NOT SUPPORT QWEST’S “NON-**  
6 **IMPAIRMENT” CLAIMS**  
7

8

9 **Q. DOES THE DATA QWEST SUPPLIED FOR 2003 SUPPORT QWEST’S**  
10 **“NON-IMPAIRMENT” CLAIMS IN ARIZONA?**

11 A. No. While the Joint CLECs believe it is inappropriate to use the 2003 data, as  
12 discussed above, even if this data were used properly it would not support many  
13 of Qwest’s “non-impairment” claims. <sup>51</sup> Highly Confidential Table 4 below  
14 shows Qwest’s 2003 data and the adjustments to this data based on this testimony.

---

<sup>50</sup> *Teitzel Direct*, page 11, lines 1 – 3..

<sup>51</sup> A wire center with 38,000 switched business lines qualifies for Tier 1 status as well as “non-impaired” status for DS3 loops. 60,000 switched business lines are required for “non-impaired” status for DS1 loops.

1           **Table 4: Corrected Line Counts based on December 2003 Data**

2   **[\*\*\* BEGIN HIGHLY CONFIDENTIAL]**

3

4                           **TABLE 4 REDACTED**

5

6

7

8   **[END HIGHLY CONFIDENTIAL \*\*\*]**

9           The table above shows Qwest's 2003 line counts as filed and Qwest's 2003 line  
10          counts adjusted to correct for the errors discussed above. As can be determined  
11          from the table above, in conjunction with Qwest's fiber-based collocation data,  
12          the corrected 2003 line count changes Qwest's designations in two wire centers.  
13          The Tempe wire center should not be declared "non-impaired" with respect to  
14          DS3 loops. The McClintock wire center should be classified as Tier 2, rather than  
15          Tier 1.

16          Highly Confidential Exhibit DD-2 contains this same information, but with more  
17          details, breaking out each adjustment separately. Below I describe the  
18          adjustments made in Highly Confidential Exhibit DD-2.

19

1 Qwest's proposed total switched business line counts are taken from Confidential  
2 Exhibit RHB-1 to Mr. Brigham's Direct Testimony.

3 (1) 43-08 Adjustment ("ARMIS (as is)"): This adjustment reverses the  
4 manipulation Qwest made to its 43-08 ARMIS data and instead uses the  
5 data as it is filed with ARMIS. The information used to make this  
6 adjustment was supplied by Qwest in response to JCDR 01-043(d), Highly  
7 Confidential Attachment A, and is attached to this testimony as part of  
8 Exhibit DD-03.

9 (3) High Cap Loops: Qwest counted the total capacity of high capacity loops  
10 whether or not this capacity is actually in use or serves voice customers.  
11 Capacity that is not in use and does not serve voice customers is not  
12 switched and should be removed from the total line counts. First I  
13 removed high capacity lines from the counts for carriers, such as Covad,  
14 who do not sell circuit switched services. Second, I applied a 50% factor  
15 to the total capacity counts to represent the average number of voice lines  
16 served via a high capacity trunk. [\*\*\* BEGIN HIGHLY  
17 CONFIDENTIAL] [REDACTED]  
18 [REDACTED] [END CONFIDENTIAL \*\*\*]

19 (4) DS0 Loops: Similar to the adjustment above, I removed non-switched  
20 lines from the DS0 loop counts.

21 (5) Hi-Cap UNE-P – Used Capacity: I applied a factor to the Hi-Cap UNE-P  
22 lines in order to approximate the amount of switched capacity on these  
23 lines. This factor is approximated from JCDR 02-046 Highly Confidential  
24 Attachment B.

25 (6) Removal of UNE-L Residential Lines: Though the Joint CLECs believe it  
26 is inappropriate to include residential line counts in the switched business

1 line data, no adjustment was made at this time. First, this data is difficult  
2 for CLECs to obtain as only a small number of the CLECs providing  
3 service in the impacted wire centers in Arizona are part of the Joint CLEC  
4 coalition. Second, it is difficult to obtain CLEC records at the wire center  
5 level from more than two years ago. Qwest's bills to CLECs do not  
6 include the wire center where the loop is ordered. Finally, this adjustment  
7 is likely to be small, as most CLECs purchasing unbundled loops do so to  
8 provide services to business customers. The Commission should require  
9 Qwest to remove the number of residential lines served over unbundled  
10 loops.

11 As discussed previously the Joint CLECs believe it is inappropriate to rely upon  
12 2003 data to determine March 2005 impairment. Qwest relied upon 2003 data.  
13 The results presented above simply illustrate that Qwest's list of "non-impaired"  
14 wire centers would be different than what Qwest has claimed, if Qwest had  
15 correctly counted switched business lines using the 2003 data.

16

---

1           **E.    SUMMARY OF ALL KNOWN DECISIONS REGARDING**  
2           **SWITCHED BUSINESS LINES FROM ACROSS THE COUNTRY**  
3

4   **Q.    HAVE OTHER STATE COMMISSIONS ADDRESSED THESE ISSUES**  
5   **AND WHAT HAVE THEY FOUND?**

6   **A.**    Yes, a number of state Commissions have held proceedings on these issues, the  
7           most recent, and the first in the Qwest region, is Washington, where the ALJ  
8           issued a decision on April 20, 2006.<sup>52</sup> Table 5 below summarizes all of the state  
9           decisions of which I am aware. The row labeled CLEC position represents the  
10          position of the Joint CLECs in this docket. This table also shows the positions  
11          taken by the various RBOCs with regards to the issues discussed. "N/A"  
12          indicates that the issue was not discussed in the Commission's order. In these  
13          cases I believe it is correct to assume that the RBOC's position was used as a  
14          default. An "X" indicates that the issue has not yet been litigated in the state.<sup>53</sup>  
15          The Washington decision, although listed separately for Verizon and Qwest, is in  
16          fact, a single decision. The decision is listed separately for each ILEC, however,  
17          because Verizon and Qwest took slightly different positions on some of the  
18          issues.

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<sup>52</sup> The Washington ALJ decision is attached to this testimony as Exhibit DD-4. Most, if not all, of the state decisions are available on the state commission websites and can be fairly easily found using the docket number and the date of the decision.

<sup>53</sup> The California decision was part of an AT&T (previously SBC) arbitration regarding

1 **Table 5: Summary of State Commission Switched Business Line Count Decisions**

2

State	RBOC	Docket	Decision Date	Vintage of Data	ARMIS 43-08	Residential UNE Loops	Non-Switched UNE Loops	CLEC High Cap Loop Count
		<b>CLEC Position</b>		<b>Dec-04</b>	<b>As Is</b>	<b>Exclude</b>	<b>Exclude</b>	<b>Used Capacity</b>
		<b>AT&amp;T (SBC) Position</b>		<b>Dec-03</b>	<b>As Is</b>	<b>Include</b>	<b>Include</b>	<b>Full Capacity</b>
CA	ATT	Application 05-07-024	27-Jan-06	X	As Is	Include	Include	Full Capacity
IL	ATT	Docket 05-0042	2-Nov-05	N/A	As Is	Include	Include	N/A
IN	ATT	Case No. 42857	11-Jan-06	N/A	As Is	Include	Include	N/A
KS	ATT	Docket 06-SWBT-743-Com	2-Jun-06	N/A	N/A	Include	Include	Full Capacity
MI	ATT	Case No. U-14447	20-Sep-05	Dec-04	N/A	Exclude	N/A	N/A
OH	ATT	Case No. 05-887-TP-UNC	9-Nov-05	N/A	N/A	Include	Include	N/A
OH	ATT	Case No. 05-1393-TP-UNC	6-Jun-06	Dec-06	As Is	Include	Include	Full Capacity
TX	ATT	PUC Docket No. 31303	7-Apr-06	Dec-03	As Is	Include	Include	Full Capacity
		<b>Bell South</b>		<b>Dec-04</b>	<b>Adjusted</b>	<b>Include</b>	<b>Include</b>	<b>Full Capacity</b>
FL	BS	Docket No. 041269-TP	2-Mar-06	N/A	Adjusted	Include	Include	Full Capacity
GA	BS	Dockte No. 19341-U	2-Mar-06	N/A	Adjusted	Include	Include	Full Capacity
NC	BS	Docket No. P-55 SUB 1549	1-Mar-06	Dec-04	As Is	Exclude	N/A	Used Capacity
SC	BS	Docket No. 2004-316-C	10-Mar-06	N/A	Adjusted	Include	Include	Full Capacity
		<b>Qwest Position</b>		<b>Dec-03</b>	<b>Adjusted</b>	<b>Include</b>	<b>Include</b>	<b>Full Capacity</b>
WA	Q	Docket UT-053025	20-Apr-06	Dec-03	As Is	Include	Include	Full Capacity
UT	Q	Docket 06-049-040	DPU Recommendation	X	As Is	Include	Include	Full Capacity
CO	Q	Docket 06M-080T	Staff Recommendation	Dec-06	As Is	Include	Exclude	Full Capacity
		<b>Verizon Position</b>		<b>Dec-03</b>	<b>As Is</b>	<b>Include</b>	<b>Include</b>	<b>Full Capacity</b>
NH	V	Order No. 24,598	10-Mar-06	N/A	N/A	N/A	N/A	N/A
WA	V	Docket UT-053025	20-Apr-06	Dec-03	As Is	Include	Include	Full Capacity

3

4 As can be seen from the table above, Mr. Teitzel is incorrect when he states,  
5 “most state commissions are consistent with the methodology that Qwest has used  
6 to count business access lines in Arizona.”<sup>54</sup> As can be seen from the table  
7 above, this is true for some of Qwest’s issues, but not all of Qwest’s positions.  
8 Many commissions have used 2004 line count data and most commissions have

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TRO/TRRO issues, but did not include an actual review of the AT&T line count data. As a result the proper vintage of the data has not yet been litigated.

<sup>54</sup> *Brigham Direct*, page 5, lines 21 – 22.

1 used the ARMIS data, without any of the adjustments Qwest proposes in this  
2 case.

3 **IV. UPDATES TO QWEST'S WIRE CENTER LIST**

4 **Q. PLEASE DESCRIBE QWEST'S PROCESS FOR MAKING UPDATES TO**  
5 **THE WIRE CENTER LIST.**

6 A. Ms. Albersheim, for Qwest, has laid out the following process for Qwest to  
7 update the wire center list:

8 (1) Qwest will "update the list of non-impaired wire centers as often as  
9 necessary."<sup>55</sup>

10 (2) Qwest will provide CLECs and the Commission notice "when wire  
11 centers are reclassified."<sup>56</sup>

12 (3) CLECs may raise factual disputes regarding Qwest's data, but CLECs  
13 should not have the opportunity to "re-litigate the methodology set forth  
14 by the FCC."<sup>57</sup> In addition review of Qwest's data "should not be used as  
15 a means to delay the designation of new wire centers as non-impaired."<sup>58</sup>

16 (4) CLECs would have thirty days to object to the additional non-impaired  
17 wire center list or else "the wire center list should be updated by operation

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<sup>55</sup> *Albersheim Direct*, page 13, lines 9 - 10.

<sup>56</sup> *Id.* at 16, lines 4 - 5.

<sup>57</sup> *Id.* at 17, lines 12 - 14.

1 of law”<sup>59</sup> unless CLEC’s dispute the change in status. In addition, CLECs  
2 are prohibited from “order[ing] impacted high-capacity UNEs” thirty days  
3 after the notice from Qwest.<sup>60</sup>

4 (5) CLECs will “transition existing DS1 and DS3 UNEs to an alternative  
5 service” within ninety days.<sup>61</sup>

6 (6) If a dispute delays the implementation of a change in the wire center  
7 list, then “Qwest would back bill CLECs to the effective date if the change  
8 in wire center status is approved.”<sup>62</sup>

9 **Q. ARE THERE ANY PROBLEMS WITH QWEST’S PROPOSED PROCESS**  
10 **FOR MAKING UPDATES TO THE WIRE CENTER LIST?**

11 A. Yes. The procedure proposed by Qwest for adding wire centers to the Wire Center  
12 List is problematic in multiple respects. Below I address each of the steps  
13 identified above.

14 (1) Qwest should be allowed to propose to reclassify a wire center when  
15 Qwest has a good faith belief that the number of fiber-based collocators  
16 has met a threshold condition. Because Qwest has claimed that line count

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<sup>58</sup> *Id.* at 16, lines 13 - 16.

<sup>59</sup> *Id.* at 18, lines 1 - 3.

<sup>60</sup> *Id.* at 16, lines 6 - 7.

<sup>61</sup> *Id.* Page 16, lines 8 - 9. Note, for dark fiber Qwest proposes 180 days for transition to alternative arrangements.

<sup>62</sup> *Id.* at 18, lines 18 - 20.

1 information is available only on an annual basis, due to the FCC's reliance  
2 on ARMIS data, updates based on line counts are appropriate only when  
3 new ARIMIS data is available, i.e. once a year.

4 Because the impairment status of a wire center is vitally important in  
5 informing CLEC investment decisions, CLECs should be informed when a  
6 wire center is within 5,000 lines, or within 1 fiber collocator, of changing  
7 designation.

8 (2) Qwest needs to provide to CLECs and this Commission, not only  
9 notice of changes to wire center designations, but the factual evidence  
10 supporting these changes. CLEC review and Commission approval of any  
11 updates to the Wire Center List remains crucial going forward for a  
12 number of reasons. Proper review of updates based on Qwest's fiber-  
13 based collocation data is necessary given that Qwest's default process is to  
14 count a carrier as a fiber-based collocator when the carrier does not  
15 respond to Qwest's request for verification. Qwest also appears to default  
16 to counting a carrier as a fiber-based collocator despite the results of its  
17 own field verification. In addition, in some cases Qwest counts a carrier  
18 as a fiber-based collocator when the carrier disagrees with this  
19 classification. It is also important that carriers are able to verify that  
20 Qwest counted switched business lines consistently with the findings of  
21 this Commission.

1 (3) The Joint CLECs agree that any decisions made by this Commission  
2 regarding interpretation of the TRRO should not be re-litigated by either  
3 party as updates are made to the wire center list.<sup>63</sup> In addition, the Joint  
4 CLECs have always supported an expedited process with regard to  
5 additions to the wire center list.

6 (4) The Joint CLECs disagree that proposed changes by Qwest should  
7 become effective by "operation of law." This type of unilateral action by  
8 Qwest is why the Joint CLECs petitioned this Commission for this  
9 proceeding in the first place. In the TRRO, the FCC determined  
10 impairment for unbundled access to high-capacity loops and transport on a  
11 wire center basis, using as criteria the number of business lines and fiber-  
12 based collocators in wire centers.<sup>64</sup> A CLEC must "undertake a  
13 reasonably diligent inquiry" into whether high capacity loops and transport  
14 meet these criteria, and then must self-certify to the ILEC that the CLEC is  
15 entitled to unbundled access.<sup>65</sup> The FCC said that ILECs must  
16 "immediately process" the UNE order and then may "subsequently" bring  
17 a dispute before a state commission or other authority if it contests the

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<sup>63</sup> However, it should be clear that the Joint CLECs disagree with Qwest's characterization that the FCC's methodology is being challenged. The Joint CLECs have not asked this Commission to overturn the FCC's methodology as it relates to non-impaired wire centers, but only to force Qwest to implement this methodology consistent with the TRRO. It is Qwest that is seeking to change the FCC methodology by refusing the CLEC's ability to self-certify as outlined in the TRRO. This is discussed in greater detail under (4).

<sup>64</sup> TRRO ¶¶ 146, 155, 166, 174, 178, 182 and 195.

<sup>65</sup> TRRO ¶ 234.

1 CLEC's access to the UNE. If the ILEC prevails in the dispute, the ILEC  
2 is protected because it may back bill for the time period when it should  
3 have been allowed to bill a higher rate.

4 Instead of insisting on enforcing their rights under the law, the Joint  
5 CLEC's would agree to a process whereby this Commission reviews and  
6 approves Qwest's list. The Joint CLECs believe that such an approach  
7 will conserve Commission and staff resources by avoiding adjudicating  
8 individual disputes between Qwest and CLECs. However, as a condition  
9 of the Joint CLECs making this concession, the CLECs and the  
10 Commission must be able to meaningfully review the evidence used to  
11 support changes to Qwest's wire center list. The Joint CLECs cannot  
12 agree to a process whereby Qwest simply declares the list has changed  
13 because of the material shortcomings in Qwest's data gathering processes  
14 and its application of the law to the facts it gathers. The Joint CLECs will  
15 only relinquish their self-certification rights under the TRRO if the  
16 Commission agrees to explicitly approve changes to the wire center list  
17 proposed by Qwest before they become effective.

18 The Colorado staff backs such an approach. Ms. Notarianni recommends,  
19 "A Commission order shall be required before an update to the list of  
20 'non-impaired' wire centers takes effect. This will have the practical effect  
21 of assuring that sufficient and accurate data has been presented and

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1 assessed to allow the Commission to make a finding of non-  
2 impairment.”<sup>66</sup>

3 Qwest’s proposal to block CLEC orders in offices Qwest deems as “non-  
4 impaired” underscores the practical importance of having the Commission  
5 approve any additions to Qwest’s wire center list.<sup>67</sup> The ability to block a  
6 competitor’s orders is an extremely potent anti-competitive weapon. By  
7 blocking CLEC orders, Qwest can bring a CLEC’s business to a stop. The  
8 Commission should not permit one competitor to have the unilateral  
9 power, in addition to the temptation, to damage the business interests of its  
10 competitors.

11 Finally, Qwest’s procedures provide only thirty days notification to  
12 CLECs before changes are implemented. A thirty-day notification is  
13 inadequate for a CLEC to properly plan and react to changes in UNE  
14 availability.

15 (5) Qwest’s process allows for essentially no transition period at all.  
16 Qwest plans to provide notice and after 30 days the CLEC will be billed  
17 alternative rates. The CLEC is put in the position of having to review  
18 Qwest’s claims, initiate disputes if Qwest’s data is unclear, and transition  
19 facilities to an alternative service within 30 days. Though Qwest claims

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<sup>66</sup> *Notarianni CO Staff Answer Testimony*, page 29, lines 20 – 23.

<sup>67</sup> Qwest’s proposal to block CLEC orders will be discussed in more detail in Section V.

1           that it is offering a 90 transition, this transition is meaningless since the  
2           CLEC will be retroactively billed to day 31. Even under the best  
3           transition scenario (i.e. Qwest files clear evidence supporting its non-  
4           impairment claim and the CLECs agree with Qwest's claim) 30 days is an  
5           insufficient amount of time to alter business planning in a particular wire  
6           center. Qwest's transition period pales in comparison to the one-year  
7           transition period the FCC established in the *TRRO*.<sup>68</sup> The FCC  
8           recognized the significant rate shock involved in a transition in addition to  
9           the practical problems of establishing alternative service arrangements and  
10          arranging for seamless migrations to avoid customer impacts. The FCC's  
11          one-year transition should be the standard for all future transitions.

12          The tariffed rates Qwest has proposed to charge for delisted UNEs are  
13          significantly higher than the UNE rates. For example, the DS3 UNE rate  
14          is \$739.07, while the month-to-month interstate special access rate for  
15          DS3 Channel Terminations is \$2,200.00, almost three times as much as  
16          the UNE rate. Changes in costs will affect CLECs' business plans.  
17          Collocation builds are expensive and time consuming. The expected  
18          return from a collocation will be dramatically lower if high cap loops  
19          UNEs or UNE transport were suddenly to become unavailable.

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<sup>68</sup> *TRRO*, ¶ 5. Note that the FCC set an 18-month transition period for Dark Fiber Transport. In the Omaha Forbearance Order (Memorandum Opinion and Order FCC 05-170, WC Docket No. 04-233, September 26, 2005) the FCC established a six-month transition period for carriers to establish alternative arrangements.

1           Uncertainty as to future UNE availability will deter CLEC investment in  
2           facilities. Providing CLECs with information on the status of wire centers  
3           with respect to business access lines and fiber-based numbers will allow  
4           them to rationally plan future investment.

5           (6) Qwest proposes that any unsuccessful dispute raised by CLECs  
6           regarding changes in Qwest's wire center list be subject to back billing to  
7           the time when Qwest added the wire center to the list. While the Joint  
8           CLECs do not disagree in theory with Qwest's proposal, any disputes  
9           regarding the effective date should be settled by the Commission based on  
10          the circumstances that caused a delay in implementation. For example, if  
11          Qwest simply provides a list of wire centers, without proper supporting  
12          data, or if the supporting data Qwest provides is incomplete, or in  
13          substantial error, the Joint CLECs do not agree that the effective date of  
14          the change in the wire center list should be retroactive. Under Qwest's  
15          scenario, Qwest would have the incentive to list all of its wire centers as  
16          "non-impaired" even before the data supports this status. Qwest has  
17          nothing to lose by improperly classifying a wire center as "non-impaired,"  
18          but everything to gain by adding a wire center to the list at the earliest  
19          moment possible. If any dispute arises regarding the effective date of a  
20          new wire center added to the "non-impaired" list, then the Commission  
21          should deal with this issue based on the facts regarding that wire center

1                   and the reasons that a CLEC may have questioned the validity of the wire  
2                   center designation.

3   **Q.   WHAT IS THE CLEC PROPOSAL FOR MAKING UPDATES TO THE**  
4   **WIRE CENTER LIST?**

5   A.   The Joint CLEC's propose the following process for Qwest to make updates to  
6   the wire center list. This process was outlined in the Joint CLECs' February 15,  
7   2006, letter to the Commission, *TRRO/Request for Commission Review and*  
8   *Approval of Wire Center Lists*, Attachment A.

9                   (1) Before Qwest files a request (along with supporting data) to this  
10                  Commission to add a wire center to the wire center list, Qwest will issue a  
11                  notice to CLECs informing them of the filing, notifying them that the  
12                  filing (which will be filed as confidential pursuant to the protective order)  
13                  may contain a CLEC's confidential data, advising each CLEC that it may  
14                  obtain data in the docket by signing the protective order, and indicating  
15                  that, if a CLEC objects, the CLEC should contact *the Commission* before  
16                  a given date. These notices would be similar to the notices that ILECs  
17                  currently send with respect to requests for CLEC-specific data (*see*  
18                  example in Exhibit DD-8). The example of the Qwest notice in Exhibit  
19                  DD-8 shows that Qwest already has a process in place for notifying  
20                  CLECs (including non-party CLECs) of when Qwest intends to provide

1 CLEC-specific data to the other parties or the Commission pursuant to a  
2 protective order.

3 (2) Qwest should make a filing with the Commission and provide  
4 sufficient supporting data to the Commission and CLECs so that the data  
5 can be reviewed. Once sufficient data is provided, the CLECs would  
6 request any necessary follow up information. This exchange of  
7 information should take no more than 20 days, assuming that Qwest  
8 provides sufficient data with its initial filing.<sup>69</sup>

9 (3) Once the information exchange is complete and CLECs have  
10 reviewed the data, CLECs should file exceptions, challenge the  
11 sufficiency of the data, or object to inclusion of any wire center on the list.  
12 If there is no objection, the Commission should approve the wire center  
13 list, send a notice containing the updated approved wire center list, and  
14 post the approved list on the Commission's website. If there are any  
15 objections, the Commission should approve a list containing only any

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<sup>69</sup> Qwest's filing should contain information the Commission finds relevant in this proceeding, including the type of information Qwest provided in this case with its testimony (as amended by the Commission) and in response to data requests utilized by the Commission to reach its decision. Qwest's full disclosure of relevant information will expedite the review process and alleviate Qwest's concern for timely review. For fiber-based collocations this should contain the names of the fiber-based collocators, indications as to whether the carriers verified their status as fiber-based collocators, indication as to whether any carrier objects to being classified as a fiber based collocator, results from any field verification Qwest may have undertaken and any other relevant data. Line count data should be consistent with the Commission's decision in this docket. In addition line count data should be provided with enough details so that calculations made to develop total line counts can be verified from the source data. In addition, Qwest should provide carrier specific data, in masked format, so that each interested carrier can review its own data.

1           undisputed wire centers and resolve all disputes as to disputed wire  
2           centers. Once the disputes are resolved, the Commission should, if  
3           necessary, update the list.

4           This process need not be lengthy for a number of reasons. First, additions to the  
5           wire center list are almost certainly likely to contain fewer wire centers than the  
6           wire centers being investigated in Qwest's initial filing. Second, the issues in the  
7           investigation to update the wire center list will be narrow. The Commission will  
8           already have decided certain disputes regarding the counting of business lines and  
9           the sufficiency of fiber-based collocation data. Further, Qwest expanded the  
10          issues in this case by raising issues regarding non-recurring charges and the  
11          blocking of CLEC orders.

12

13   **V. BLOCKING CLEC ORDERS**

14   **Q. DO YOU HAVE ANY CONCERNS REGARDING HOW QWEST WILL**  
15   **IMPLEMENT THE TRRO WITH RESPECT TO UNE ORDERS?**

16   **A.** Yes. Qwest attempted to implement a Change Request through its Change  
17   Management Process that would change Qwest's ordering system to block CLEC  
18   orders for UNEs in wire centers that Qwest unilaterally believes are not  
19   impaired.<sup>70</sup> Although Qwest did not raise this issue in the direct testimony of any

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<sup>70</sup> See CR #SCR083005-01 (currently in deferred status)  
[http://www.qwest.com/wholesale/cmp/archive/CR\\_SCR083005-01.htm](http://www.qwest.com/wholesale/cmp/archive/CR_SCR083005-01.htm). This is attached to this testimony  
as Exhibit DD-6.

1 of its witnesses, Qwest did, in its response to the CLECs' petition to establish this  
2 docket, ask the Commission to confirm that "Qwest is permitted to reject [the  
3 CLEC's] order."<sup>71</sup>

4 The FCC has clearly stated that ILECs "must immediately process" orders for  
5 UNEs from a CLEC who certifies that it has undertaken a "reasonably diligent  
6 inquiry, and, based on that inquiry, self-certify that, to the best of its knowledge,"  
7 it is entitled to obtain the UNE.<sup>72</sup> Because Qwest's system change would block a  
8 CLEC's UNE order regardless of whether the CLEC had self-certified, it violates  
9 the FCC's Order.

10 The FCC's position is eminently sensible. The service to the customer comes first  
11 and it should not be jeopardized. If the CLEC is mistaken about the status of the  
12 wire center, Qwest can seek redress and back bill the CLEC for the difference  
13 between the UNE rate and the Private Line rate. If Qwest is mistaken about the  
14 status of a wire center, no harm is done to the end-user customer.

15 Qwest's testimony does not address how its system change request complies with  
16 the FCC's Order. The Commission should require Qwest to follow the FCC's  
17 directive, which could not be clearer: "the incumbent LEC must provision the

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<sup>71</sup> *Qwest Corporation's Comments in Response to Commission Order Opening Docket and Allowing a Response* at 6, Docket 06M-080T (March 1, 2006).

<sup>72</sup> TRRO at ¶ 234.

1           UNE and subsequently bring any dispute regarding access to that UNE before a  
2           state commission or other appropriate authority.”<sup>73</sup>

3       **Q.    ARE THERE ANY SITUATIONS WHERE THE CLECS WOULD BE**  
4       **WILLING TO ALLOW QWEST TO BLOCK ORDERS?**

5       A.    Although the TRRO prohibits Qwest from blocking orders, the Joint CLECs are  
6           prepared to agree to a process under which Qwest could reject orders, provided  
7           that: 1) the rejection of orders is limited to facilities designated as non-impaired  
8           after party review of the underlying data and consistent with the Commission-  
9           approved process established in this proceeding; and 2) the terms, procedures and  
10          details for the rejection of such orders are known in advance and mutually agreed  
11          upon.

12       **Order rejection should be limited to wire centers on a Commission-approved**  
13       **list of non-impaired wire centers.**

14          Given the right of CLECs to self-certify, CLECs can only concede to an  
15          automatic rejection process if CLECs have a prior opportunity to: 1) review the  
16          underlying data related to Qwest’s non-impairment designations; and 2) challenge  
17          any such designation at the Commission and obtain an independent determination  
18          regarding the propriety of the designation. In other words, it is critical that  
19          CLECs have the opportunity, under Commission oversight, to review the inputs  
20          into a designation and that the rejection of orders be limited to wire centers on a

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<sup>73</sup> *Id.*

1 Commission-approved list of non-impaired wire centers. In short, CLECs require  
2 they be given due process before they will waive their right to self-certify.

3 The Commission-approved list should be the touchstone for the rejection of UNE  
4 orders with respect to current non-impairment designations and any future  
5 additions to the list of non-impaired wire centers. Otherwise Qwest will have the  
6 ability, based upon disputed claims, to cause substantial harm to a CLEC's  
7 business by rejecting a CLEC's legitimate UNE orders. Qwest must be  
8 committed to following a Commission's ruling on the wire center list (including  
9 future additions to that list), before CLECs can enter into discussions with Qwest  
10 about putting system modifications in place that would reject CLEC orders in  
11 "non-impaired" wire centers.

12 **The terms and procedures for rejecting orders must be predetermined and**  
13 **agreed to by CLECs**

14 The specific terms and procedures for rejecting orders must be known and  
15 mutually agreed upon by Qwest and CLECs. The devil is truly in the details.  
16 Therefore, it is imperative that the process for Qwest's rejection of UNE orders  
17 under the TRRO be acceptable to both Qwest and CLECs and not be imposed  
18 unilaterally by Qwest.

19 If Qwest unilaterally implemented a defective process or systems modification to  
20 reject orders, and that defective process resulted in erroneous rejections, then  
21 CLECs would be in the same position that they would be in if Qwest erroneously

1 rejected orders in violation of TRRO paragraph 234 for any other reason. Mutual  
2 prior agreement on the process will also avoid needless disputes that would likely  
3 come before the Commission in the context of a crisis. CLECs are willing to  
4 develop those procedures bi-laterally with Qwest in interconnection agreement  
5 negotiations or as part of this proceeding. Addressing those details in this  
6 proceeding would probably be the more efficient approach and minimize the risk  
7 of delay in Qwest's ability to block CLEC UNE orders.

8

9 **VI. NON-RECURRING CHARGES**

10 **Q. PLEASE PROVIDE AN OVERVIEW OF THE TRANSITION PROCESS**  
11 **QWEST HAS PROPOSED FOR CONVERTING UNE CIRCUITS INTO**  
12 **SPECIAL ACCESS OR PRIVATE LINE CIRCUITS.**

13 A. Qwest's product catalog ("PCAT") on its wholesale web site contemplates that it  
14 will transition circuits 'As Is' from UNE to Private Line/Special Access  
15 Services."<sup>74</sup> That is, the physical facility is the same, whether it is called a UNE  
16 or called a Private Line or a Special Access Service.<sup>75</sup>

17 End user customers served by UNEs are receiving service and do not expect any  
18 changes to it. Changing a UNE circuit to a private line circuit should be  
19 transparent to both the end user customer and the CLEC serving that customer.

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<sup>74</sup> See Exhibit DD-5 (Qwest's On-Line PCAT "Rate Structure"), p. 2.

1 Thus while the physical circuit and its use does not changed during a transition,  
2 the rate at which Qwest will charge the CLEC does change. That private line  
3 circuits cost much more than the physically equivalent UNE circuit is clear,<sup>76</sup> but  
4 the necessity of changing the system that produces the bill in order to implement a  
5 rate increase is not at all clear.

6 Qwest claims that it is necessary to change the circuit ID so that Qwest can  
7 “accurately maintain records”<sup>77</sup> and help measure “the different service  
8 performance requirements that apply to UNEs and private line services.”<sup>78</sup>

9 Qwest proposes to charge a \$50.00 NRC<sup>79</sup> per circuit to the CLEC so Qwest can  
10 recover its cost of changing the circuit ID of the facility being converted. This  
11 change in circuit ID is done for the convenience of Qwest, at the inconvenience of  
12 the CLEC, and risks putting the CLEC customer out of service during this  
13 process.

14 To “convert” means “to cause to change in form, character, or function.”<sup>80</sup>

15 Converting from a UNE to a private line or special access circuit involves no

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<sup>75</sup> For convenience, I will refer to both Private Line and Special Access Services as “private line.”

<sup>76</sup> As stated previously the DS3 private line rate is almost triple the DS3 UNE rate. The Minnesota Commission recently opened a docket to investigate whether the rates Qwest is offering to CLECs for “non-impaired” UNEs, for which Qwest has an obligation to provide under Section 271 of the Act, are just and reasonable.

<sup>77</sup> *Million Direct*, page 6, line 8.

<sup>78</sup> *Id.* at 7, lines 5 - 6.

<sup>79</sup> See Exhibit DD-01, JCDR 01-027.

<sup>80</sup> *The New Oxford American Dictionary*, Oxford University Press 2001.

1 change whatsoever in the “form, character, or function” of the facility. The  
2 physical facility and its functionality are identical whether it is purchased as a  
3 UNE or purchased as a private line or special access circuit. Nor does the end-  
4 user’s service change in any way. The customer should continue to receive  
5 exactly the same service via a private line as the customer received via a UNE.  
6 The “conversion” of a UNE into a private line is not a network facility issue – it is  
7 an issue with Qwest’s internal systems and how Qwest plans to move the billing  
8 for the facility from one system to another system.

9 To “convert” a UNE to a private line, consists of no more than Qwest wanting to  
10 bill CLECs higher monthly recurring charges while excluding performance data  
11 for former UNEs from UNE performance measurements. Consequently, the  
12 conversion process results from the choices Qwest makes about how to  
13 accomplish these results. Neither result is required by the TRRO.

14 **Q. WHY WOULD THE END USER CUSTOMERS SERVICE BE PLACED**  
15 **AT RISK AS RATES ARE CHANGED FROM THE UNE RATE TO THE**  
16 **PRIVATE LINE RATE?**

17 A. Qwest describes how the conversion from a UNE to a private line service could  
18 impact end user customers: “because the circuit ID is changing, for example,  
19 mechanized steps in Qwest’s systems view the outward action of the old circuit  
20 ID as disconnect activity. This could cause disruption to the CLEC’s end-user

1 customer's service unless it is prevented by the manual intervention steps  
2 designed in the conversion process.”<sup>81</sup>

3 There is no reason why a CLEC's end user customer should be placed at risk.  
4 However the process by which Qwest plans on implementing this billing change,  
5 which includes a record change to the circuit ID, does just that.

6 It is important to understand that only CLEC's end users are being placed at risk.  
7 Qwest's end users are not affected by these changes. As a result, any errors that  
8 impact the CLEC's end user customer have the potential of being a win-back  
9 situation for Qwest. The CLEC's end user is unaware of the TRO/TRRO and  
10 does not care what billing system Qwest uses to bill the CLEC.

11 **Q. WHY WON'T THE “MANUAL INTERVENTION STEPS” MENTIONED**  
12 **BY QWEST BE SUFFICIENT TO PROTECT THE CLEC'S END USER**  
13 **CUSTOMER?**

14 A. First, it should be recognized that the “manual intervention steps” described by  
15 Qwest are only necessary if Qwest insists on changing the circuit ID. If the  
16 circuit ID is not changed, then the “prevention” of customer service disruption is  
17 not necessary.

18 Second, every time manual intervention enters a process, the possibility for errors  
19 occurs. Qwest points out numerous situations where a failure in the manual

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<sup>81</sup> See Exhibit DD-01, JCDR 01-017.

1 intervention process could cause a disruption of service for the CLEC's end-user  
2 customer during the conversion. Below are areas where Qwest describes the  
3 manual intervention that must take place.

4 Provisioning: "[M]anually reviewing WFADI and WFADOA, whose purpose is  
5 to ensure that work steps have not been loaded to the central office or the field  
6 **that would result in the interruption of service to the CLEC's end-user**  
7 **customer** during the conversion." <sup>82</sup> "Unnecessary WFADI and WFADO steps  
8 increase the risk of disconnecting a customer in error and/or an unnecessary  
9 dispatch. Therefore the tester must review WFADI and WFADO and cancel un-  
10 needed steps." <sup>83</sup>

11 Service Delivery Coordinator ("SDC"): "For Common Language Serial numbered  
12 (CLS) circuit IDs, it is most efficient, and **minimizes the risk of the customer**  
13 **being taken out of service**, to reuse the serial number portion of the circuit ID  
14 whenever possible." <sup>84</sup>

15 "The SDC verifies multiple pieces of information provided on the service order  
16 by the customer to ensure that the activity to be performed is clear and that the

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<sup>82</sup> See Exhibit DD-01, JCDR 01-008. See also Exhibit DD-01, JCDR 01-021

<sup>83</sup> See Exhibit DD-01, JCDR 01-010.

<sup>84</sup> See Exhibit DD-01, JCDR 01-016.

1 circuit being converted is specifically identified in order **to avoid billing and**  
2 **service problems.**"<sup>85</sup>

3 Designing: "The manual review and validation processes that the Designer  
4 performs are intended to interrupt an otherwise mechanized downstream flow that  
5 is initiated with the record-in and record-out orders in order to ensure that no  
6 physical changes in facilities or equipment **that would disrupt service to the**  
7 **CLEC's end-user customer** have occurred."<sup>86</sup>

8 Qwest has identified numerous manual steps that must take place for each order  
9 converting a UNE to a private line service. Each manual step is intended to  
10 prevent the disruption of the CLEC's end-user customer during the transition of  
11 the circuit. These steps would not be necessary if Qwest simply changed the rates  
12 it charges to CLECs, rather than insisting on a change in the circuit ID  
13 representing the facilities serving the end user customer.

14 **Q. IS IT NECESSARY FOR QWEST TO CHANGE THE CIRCUIT ID TO**  
15 **CONVERT A UNE TO A PRIVATE LINE SERVICE?**

16 A. No. Qwest has mentioned three general reasons why it believes a change in the  
17 circuit ID is necessary for the conversion of a UNE to a private line service. The  
18 reasons cited by Qwest are: (1) Qwest needs the ability to maintain detailed and  
19 distinct records for UNEs versus private line circuits; (2) the unique circuit ID is a

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<sup>85</sup> See Exhibit DD-01, JCDR 01-017.

1 means of measuring the unique service performance that apply to UNEs and  
2 private line services; and (3) the FCC requires unique circuit IDs. Upon  
3 examination, not one of these reasons is valid. The bottom line is that Qwest  
4 would find it more convenient if the circuit ID were to change, while making the  
5 CLEC's life inconvenient. As mentioned, there is risk to the CLEC's end user  
6 customer's service. In addition, the CLEC must update circuit IDs in the CLEC's  
7 internal systems so that the CLEC can validate bills, report troubles, and  
8 implement moves, adds and changes.

9 ***(1) Detailed and distinct records***

10 Qwest witness Million testifies that Qwest has two billing systems: CRIS  
11 (Customer Record and Information System) and IABS (Interactive Access Billing  
12 System).<sup>87</sup> Qwest bills UNEs out of its CRIS system and private lines and special  
13 access out of its IABS system. During the initial arbitrations Qwest insisted on  
14 using its CRIS system for billing UNEs over the objections of MCI which  
15 proposed the use of IABS for all wholesale billing.<sup>88</sup>

16 Million does not testify that its CRIS system cannot accurately bill CLEC's higher  
17 rates for circuits. Such a claim would be simply be incredible given that UNE

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<sup>86</sup> See Exhibit DD-01, JCDR 01-018.

<sup>87</sup> *Million Direct*, page 5, lines 16 - 17.

<sup>88</sup> *In the Matter of the Petition of MCIMetro Access Transmission Services, Inc, for Arbitration of Interconnection Rates, Terms and Conditions Pursuant to 47 U.S.C. § 252 (b) of the Telecommunications Act of 1996.*, Opinion and Order, Docket No. U-3175-96-479 and E-1051-96-479, Decision No. 59931, December 18, 1996, pages 14 - 16.

1 rates in Qwest's region have changed and Qwest has implemented both rate  
2 increases and decreases in CRIS.

3 Perhaps even more dramatic evidence of the capabilities of the CRIS system in  
4 this regard is Qwest's implementation of Qwest Platform Plus (QPP) agreements.  
5 QPP circuits are subject to annual rate increases. In fact, the rate changes  
6 involved with QPP are significantly more complex than the rate change involved  
7 in changing from UNE rates to private line rates. QPP rates differ depending  
8 upon whether the end-user customer is a residential or a business customer and  
9 upon whether the CLEC has met certain volume quotas. Qwest has accomplished  
10 these rate changes within CRIS by means of adding new Universal Service  
11 Ordering Codes ("USOC") that introduce additives to the underlying UNE rate  
12 that CLECs pay for the circuit. Qwest does not assess conversion charges upon  
13 its CLEC customers for increasing the amounts that CLECs pay for QPP circuits.

14 Additional evidence that Qwest is able to accomplish conversions via a simple  
15 rate change appears in Qwest's Interconnection Agreement Amendment relating  
16 to the FCC *Omaha Forbearance Order*. The *Omaha Forbearance Order*<sup>89</sup>  
17 removed Qwest's obligations to provide UNEs in certain Nebraska wire centers.  
18 Qwest has implemented a conversion process for DS0 unbundled loops whereby

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<sup>89</sup> *Memorandum Opinion and Order on the Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160(c) in the Omaha Metropolitan Statistical Area, FCC 05-170, WC Docket No. 04-233, effective September 16, 2005, ("Omaha Forbearance Order").*

1           there is simply a rate change.<sup>90</sup> If Qwest were willing to work with CLECs, a  
2           method could be developed to adjust rates without changing circuit IDs which  
3           places the CLEC end user customer's service at risk.

4           ***(2) Performance measurement***

5           Qwest's second basis for claiming for the necessity of changing circuit identifiers  
6           also simply states a conclusion as well. Qwest states that "the unique circuit ID is  
7           maintained as a means of measuring the different *service performance*  
8           *requirements* that apply to UNEs and private line services."<sup>91</sup> And again,  
9           Qwest's actual experience with QPP suggests this conclusion is wrong. Qwest  
10          measures service performance for QPP lines differently than it does for UNEs,  
11          and Qwest has accomplished this without changing the circuit identifiers.  
12          Further, "Prior to April 2005 Qwest did not require a change to the circuit IDs  
13          when a CLEC requested a conversions from Private Line/Special Access to EEL."  
14          <sup>92</sup> Despite this, Qwest indicates that "EEL circuits are being managed properly in  
15          the PID/PAP reporting in Arizona."<sup>93</sup>

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<sup>90</sup> This comes from a Qwest proposed Interconnection agreement titled, *Omaha Forbearance Order Amendment to the Interconnection Agreement between Qwest Corporation and COMPANY for the State of Nebraska*, downloaded from Qwest's website on May 18, 2006, (<http://www.qwest.com/wholesale/downloads/2006/060426/OFOICAamendment4-18-06.doc>)

<sup>91</sup> *Million Direct*, page 8, lines 19 - 21.

<sup>92</sup> See Exhibit DD-01, JCDR 01-022.

<sup>93</sup> See Exhibit DD-01, JCDR 01-025.

1 Tracking the appropriate circuits should not be a problem as a vast majority of the  
2 UNEs that are no longer available due to “non-impaired” status are in distinct  
3 wire centers or along specific transport routes.

4 **(3) FCC rules**

5 Qwest witness Million contends that 47 C.F.R. § 32.12(b) and (c) requires Qwest  
6 to change the circuit identifier.<sup>94</sup> Million opines that “[i]n order to sufficiently  
7 maintain its subsidiary records to support its accounting for UNEs versus its  
8 private lines services, Qwest must have accurate circuit identifiers that properly  
9 track circuits separately.”<sup>95</sup>

10 However, the FCC provisions cited only require Qwest to maintain orderly  
11 records with sufficient detail. The FCC does not prescribe how Qwest is to use  
12 circuit identifiers to maintain orderly records. Million’s conclusory statement that  
13 accurate accounting and reporting requires changing circuit identifiers begs the  
14 question of whether changing the circuit identifier is necessary. Presumably  
15 Qwest is able to maintain orderly records for its QPP products without changing  
16 the circuit identifier of the underlying line. As previously stated, prior to April  
17 2005, Qwest did not require a change to the circuit IDs when a CLEC requested a  
18 conversion from Private Line/Special Access to an EEL. When Qwest  
19 implemented its new process to change the circuit ID, CLECs were given the

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<sup>94</sup> *Million Direct*, page 7, lines 11 - 13.

<sup>95</sup> *Id.* at 8, lines 15 - 18.

1 opportunity to opt out of the changes to their embedded base of circuits.<sup>96</sup> When  
2 given this opportunity all CLECs chose to opt out of this change in circuit ID,<sup>97</sup>  
3 because no CLEC wants to put its end user customers at risk, especially when  
4 there is no change in the functionality of the circuit.

5 ***Conclusion***

6 Qwest's proposal to change the circuit ID is done for the convenience of Qwest,  
7 at the inconvenience of the CLEC and at risk to the end user customer. Further,  
8 Qwest proposes to charge the CLEC for changing the circuit ID.

9 The issue of changing circuit identifiers is important. Qwest's economic incentive  
10 is to increase its competitors' costs. Qwest can increase a CLEC's costs by  
11 undertaking unnecessary activity, or undertaking necessary activity in an  
12 inefficient manner, and requiring the CLEC to pay Qwest's costs. Qwest can also  
13 increase a CLEC's costs by undertaking activity that requires the CLEC to change  
14 its internal operations. By contending that it is necessary to change circuit  
15 identifiers, Qwest buttresses its claim that "conversion" is necessary and that it  
16 involves costs. Further, when Qwest changes a circuit's identifier, the CLEC  
17 must change the identifier in its systems as well and, depending upon the nature  
18 of the change and the CLEC's systems, processes and procedures, the CLEC's  
19 costs for making the change can be greater or smaller. To validate Qwest billing,

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<sup>96</sup> See Exhibit DD-01, JCDR 01-022.

<sup>97</sup> See Exhibit DD-01, JCDR 01-023.

1 to do moves, adds or changes to an existing line, and to deal with service and  
2 repair issues, CLECs will have to record the new circuit identifiers in their  
3 systems. Making the change will involve costs, including the costs of dealing  
4 with mistakes in the new identifiers that affect customer service.

5 Qwest has failed to demonstrate that its proposed "conversion" is necessary.  
6 Qwest witnesses never address the question of whether they can accomplish the  
7 goals of increasing its charges for a circuit, keeping accurate records, and  
8 excluding circuits from performance measurements in other ways that are less  
9 costly and less potentially disruptive to end user customers. The fact that Qwest  
10 accomplished these goals with QPP, is strong evidence that the "conversion"  
11 Qwest wants to perform is unnecessary.

12 If the Commission determines that it is appropriate for Qwest to change the circuit  
13 ID during the conversion process, then every effort should be made to protect the  
14 CLEC's end-user customer and hold the CLEC harmless from any errors that may  
15 occur.

16 **Q. SHOULD QWEST BE PERMITTED TO ASSESS A CONVERSION**  
17 **CHARGE FOR CONVERTING UNE CIRCUITS TO SPECIAL ACCESS?**

18 A. No, for several reasons. First, although Qwest is no longer required to supply  
19 certain UNEs to CLECs, Qwest's decision not to do so is Qwest's decision alone.  
20 If there are any costs to the conversion, Qwest is the cost-causer. Economic

1 efficiency is enhanced when the entity responsible for costs bears them, giving the  
2 cost-causer a reason to minimize costs.

3 Second, as the FCC recognized, ILECs have an incentive to impose "wasteful and  
4 unnecessary charges, such as termination charges, re-connect and disconnect fees,  
5 or non-recurring charges associated with establishing a service for the first time."

6 <sup>98</sup> The FCC further found that conversion charges "could unjustly enrich an  
7 incumbent LEC as a result of converting a UNE or UNE combination to a  
8 wholesale service." <sup>99</sup> Qwest should not be allowed to impose unnecessary costs  
9 on its competitors.

10 Third, Qwest does not impose conversion charges on its own customers. Qwest  
11 expects CLECs that Qwest requires to convert UNE to special access circuits to  
12 pay a significant non-recurring charge. Few if any competitive businesses would  
13 ask their customers to be charged for getting higher monthly recurring charges  
14 and getting a lesser service quality program while simultaneously necessitating  
15 changes to the customer's own internal records as well.

16 The California Public Utilities Commission found these concerns sufficient to  
17 prohibit the ILEC from assessing charges for converting UNE circuits to special  
18 access. The California Commission explained:

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<sup>98</sup> TRRO at ¶ 587.

<sup>99</sup> *Id.*

1 We concur with the FCC's finding in ¶ 587 of the *TRO* . . . that because  
2 ILECs are never required to perform conversions in order to continue  
3 serving their own customers, such charges are inconsistent with Section  
4 202 of the Act, which prohibits carriers from subjecting any person or  
5 class of persons to any undue or unreasonable prejudice or disadvantage.  
6 In the following paragraph, the FCC also reiterates that the conversions  
7 between wholesale services and UNEs are 'largely a billing function.'  
8 Given the FCC's finding cited above, it is inappropriate to charge a  
9 nonrecurring charge for record changes. Therefore, **we conclude that no**  
10 **charges are warranted for conversions and transitions that to not**  
11 **involve physical work . . . .**<sup>100</sup>

12 The Colorado staff also recommends that Qwest not charge for conversion of  
13 UNEs to private lines. Ms. Notarianni recommends:<sup>101</sup>

14 Staff recommends that no NRC be assessed for the conversion of a UNE  
15 circuit to a private line circuit. The proposed NRC of \$50 is not  
16 appropriate as the cost study is truly a reflection of Qwest's current  
17 embedded costs and not a forward looking efficient model. To the extent  
18 that this Commission believes an NRC is required, Staff recommends a  
19 nominal NRC of \$1 to acknowledge the fact the activity to convert the  
20 circuit occurs, but it is based on Qwest's process and system choices, not  
21 those of the CLEC and certainly not the most efficient process.

22 Finally, Qwest did not impose a conversion charge when customers transitioned  
23 from UNE-P to QPP. Qwest's conversion charge consequently penalizes  
24 facilities-based providers. Qwest should not be permitted to discriminate against  
25 facilities-based CLECs in favor of CLECs that rely completely on Qwest's  
26 network.

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<sup>100</sup> *Application of Pacific Bell Telephone Company, d/b/a SBC California for Generic Proceeding to Implement Changes in Federal Unbundling Rules Under Sections 251 and 252 of the Telecommunications Act of 1996, Decision Adopting Amendment to Existing Interconnection Agreement (Jan. 26, 2006) (CA Arbitration Decision) at 35 (emphasis added).*

<sup>101</sup> *Notarianni CO Staff Answer Testimony, page 36, lines 2 – 9.*

1 **Q. IN ASSESSING A CONVERSION CHARGE, WHAT COSTS DOES**  
2 **QWEST SEEK TO RECOVER?**

3 A. Qwest seeks to recover costs involved in “assur[ing] itself that the data for the  
4 converted circuit is accurately recorded in the appropriate systems.”<sup>102</sup> Qwest  
5 witness Million’s testimony is that Qwest plans to change the billing for the  
6 CLEC’s circuit from CRIS to IABS, change the circuit ID, and remove the circuit  
7 from Qwest’s performance assurance plan. But for Qwest’s insistence on  
8 changing the billing platform and changing the circuit ID, there would be no need  
9 for Qwest to “assure itself” that “the data for the converted circuit is accurately  
10 recorded.”

11 Qwest intends to charge CLECs for costs imposed by Qwest’s own decisions. In  
12 ordering UNEs, CLECs have paid to enter the correct information required by  
13 Qwest into Qwest’s systems. Rather than simply bill CLECs more for circuits  
14 billed in CRIS, Qwest chooses to charge CLECs for unnecessarily moving the  
15 information to Qwest’s IABs system. Consequently, Qwest is proposing to move  
16 CLEC circuits to a different billing system, risk disrupting service to CLEC  
17 customers, and require CLECs to change information in their own systems – all at  
18 the CLEC’s expense.

19  
20

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<sup>102</sup> *Million Direct*, page 5, lines 13 – 17.

1 Q. IS QWEST'S DESIGN CHANGE CHARGE AN APPROPRIATE  
2 CHARGE?

3 A. No. Qwest witness Million testifies that Qwest intends to charge a "Design  
4 Change" non-recurring charge. She claims that the functional areas and tasks  
5 involved in a design change "are similar" to the tasks required to transfer circuit  
6 records to IABS. Million further testifies that the Design Charge is "a  
7 conservative estimate" of the cost.<sup>103</sup> However, Qwest's definition of a Design  
8 Change indicates that it is intended to recover for engineering activity and no  
9 engineering activity is necessary to record circuit information in IABS.<sup>104</sup>

10 Qwest's FCC Interstate Tariff #1 defines this "Design Change Charge" as:

11 "[A]ny change to an Access Order which **requires engineering review.**  
12 An engineering review is a review by Company personnel of the service  
13 ordered and the requested changes to determine what change in the design,  
14 if any, is necessary to meet the changes requested by the customer.  
15 Design changes include such things as a change of end user premises  
16 within the same serving wire center, the addition or deletion of optional  
17 features, functions, BSEs or a change in the type of Transport Termination  
18 (Switched Access only), type of channel interface, type of Interface Group  
19 or technical specification package."<sup>105</sup>

20 Because the UNE circuits are converted "as is," no physical change to the circuit  
21 is required. This change is a record change only in order to update the Qwest

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<sup>103</sup> Million Direct, page 12, lines 1 – 3.

<sup>104</sup> In response to JCDR 01-027 (see Exhibit DD-01), Qwest states that it plans to update the language describing the Design Change charge because "the language contained in the interstate tariff does not specifically describe the activities attendant with the conversion of a UNE to a Private Line." Changing the definition of the rate element does not make it any more appropriate.

<sup>105</sup> Qwest Tariff FCC No. 1, section 5.2.2C. (emphasis added).

1 systems. The circuit is up and working as a UNE. Since there is no need to  
2 change the circuit ID, there is no need to “review” or “validate” the circuit design  
3 or to ascertain whether “physical changes to the circuit are needed.”<sup>106</sup>

4 Ms. Million describes three positions involved in a conversion: a Service  
5 Delivery Coordinator (SDC), a Designer, and a Service Delivery Implementer,  
6 but no activity that any of them do associated with a conversion is “engineering  
7 design.”

8 First, Qwest requires CLECs to place an order. The SDC processes the order to  
9 remove the circuit from the CRIS billing and put it into IABS billing and changes  
10 the circuit identifier, both of which are solely for Qwest’s convenience or  
11 advantage rather than being technically necessary.

12 Ms. Million first describes the Designer as conducting a review of a working  
13 circuit operating without trouble in order to determine whether any “physical  
14 changes to the circuit are needed.”<sup>107</sup> A more unnecessary step could scarcely be  
15 imagined. Ms. Million also identifies two other tasks involving the Designer.  
16 She states that the Designer “assures that the design records for the converted  
17 circuit match the current UNE circuit” and that the Designer “reviews the circuit  
18 inventory in the Trunk Integrated Record Keeping System (“TIRKS”) database to

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<sup>106</sup> *Million Direct*, page 6, lines 8 - 10.

<sup>107</sup> *Id.*

1 ensure accuracy and database integrity.”<sup>108</sup> It appears that what the Designer  
2 does is take the opportunity to correct errors in Qwest’s database at CLEC  
3 expense. CLECs have already paid installation charges when the UNE circuit  
4 was initially purchased. CLECs now are to be charged again to correct any errors  
5 in Qwest’s systems from earlier activity.

6 The Service Delivery Implementer “has overall control for order provisioning.”<sup>109</sup>  
7 Because no provisioning is required, there is nothing for the Implementer to  
8 control. The Implementer also “verifies the Record-In and Record-out orders and  
9 completes the update of the circuit orders in the WFA system.”<sup>110</sup> In essence, the  
10 Implementer checks to see that the Coordinator’s work was correct. However,  
11 because the Coordinator principally processes CLEC orders before they go into  
12 Qwest’s systems, it would seem more sensible to check the accuracy of the order  
13 before it is submitted. If an accurate order does not flow through to update  
14 Qwest’s systems properly, that is a system issue and cost, not a conversion cost.

15 In other words, Qwest wants to impose an engineering charge on CLECs to  
16 recover the costs of undertaking unnecessary work that does not actually involve  
17 any engineering. The charge is inappropriate and the Commission should not  
18 allow it.

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<sup>108</sup> *Id.* at 6 line 10 through 7 line 1.

<sup>109</sup> *Id.* at 7, lines 5 - 7.

<sup>110</sup> *Id.*

1 **Q. WHAT CONVERSION CHARGE WOULD YOU RECOMMEND?**

2 A. For the reasons I have outlined above, there should be no conversion charge.  
3 However, if the Commission chooses to allow Qwest to impose such a charge, it  
4 should be a TELRIC UNE rate reflecting the record work only nature of the  
5 conversion process.

6 The Washington Public Utilities and Transportation Commission found the  
7 appropriate rate for UNE conversions to Private Line was the TELRIC rate for  
8 conversions from Private Lines to UNEs.<sup>111</sup> The Minnesota TELRIC rate for  
9 conversions from Private Lines to UNEs is \$1.25<sup>112</sup> and the Utah Commission  
10 approved a charge of \$8.48 for converting Private Lines to UNEs.<sup>113</sup> The  
11 Arizona Commission has an approved rate of \$40.92.<sup>114</sup> If the Commission  
12 determines that CLECs should charge a rate for conversions, the TELRIC rate  
13 would be the appropriate charge.

14

15

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<sup>111</sup> *In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest, Inc. with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Washington Pursuant to 47 U.S.C. § 252(b) and the Triennial Review Order, Report and Decision, Order No. 17, Doc. No. UT-043013 (July 8, 2005) at ¶ 429.*  
(<http://www.wutc.wa.gov/rms2.nsf/vw2005OpenDocket/9D2ACD4D768DABE888257084007B7673>).

<sup>112</sup> See Sections 9.23.6.5 and 9.23.7.6 of Qwest's Minnesota SGAT  
(<http://www.qwest.com/wholesale/downloads/2006/060113/MNSGATEXhibitA12-21-05.xls>)

<sup>113</sup> The other state with an ordered rate is Arizona at \$40.32.

<sup>114</sup> See section 9.2.8 of Qwest's SGAT Exhibit A  
(<http://www.qwest.com/wholesale/downloads/2005/050225/AZ-Exhibit-A2-10-05.xls>).

1    **Q.    IS QWEST ASKING THIS COMMISSION TO APPROVE THE DESIGN**  
2           **CHANGE CHARGE AS THE APPROPRIATE CHARGE FOR QWEST**  
3           **TO CHARGE CLECS FOR CONVERTING IMPACTED UNE CIRCUITS**  
4           **TO PRIVATE LINES?**

5    A.    No, Qwest is not asking this Commission to determine a reasonable charge. Ms.  
6           Million states “Qwest asks that this Commission acknowledge Qwest’s right to  
7           assess [the Design Change] charge for the work that it performs.”<sup>115</sup> In other  
8           words, Qwest is asking this Commission to determine that it does not have  
9           jurisdiction over this charge. This Commission should reject these claims and  
10          establish an appropriate rate for the conversion of unbundled network elements to  
11          private line circuits.

12    **VII. CONCLUSION**

13  
14    **Q.    WHAT ARE YOUR RECOMMENDATIONS TO THE ARIZONA**  
15           **COMMISSION?**

16    A.    I have the following recommendations for this Commission:

17           1) The Joint CLECs’ recommendations regarding the “non-impaired” status of  
18           Qwest’s wire centers should be adopted. Qwest did not supply sufficient  
19           information to verify its fiber-based collocation data. If, during the course of this  
20           proceeding, Qwest provides further information that verifies the fiber-based

1 collocations in dispute, then the Joint CLECs will review this data and if  
2 necessary update their recommendations.

3 Qwest should be required to file proper switched business line count data. Qwest  
4 should update its line count data to be reflective of the implementation of the  
5 TRRO along with the information required to implement the proper counting of  
6 this data as outlined in this testimony.

7 2) Future additions to the wire center “non-impaired” list should require  
8 Commission approval. Qwest should make available to the Commission and  
9 CLECs the underlying data used by Qwest to determine that additional wire  
10 centers meet the FCC’s “non-impaired” status. Qwest should not be allowed to  
11 unilaterally impose its view of what is “non-impaired.” Further, Qwest should  
12 provide, on an on-going basis, a list of wire centers close to meeting the FCC’s  
13 “non-impairment” criteria.

14 3) Qwest should not be allowed to block CLEC orders without the agreement and  
15 participation of CLECs in the process and necessary systems changes.

16 4) Qwest should not be allowed to place the CLEC’s end-user customer at risk,  
17 for the convenience of Qwest, by changing the circuit ID on UNE circuits  
18 impacted by the “non-impairment” determination. In addition, Qwest should not

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<sup>115</sup> *Million Direct*, page 14, lines 4 - 6.

1           be allowed to charge CLECs for Qwest to perform tasks that Qwest is performing  
2           for its own benefit.

3   **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

4   **A.    Yes.**

**EXHIBIT**

**DD-1**

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-008

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 008

[Million Direct page 5] Please explain whether there are any activities Qwest claims it must perform for converting from UNES to Private Line facilities that are not related to activities for Qwest to "assure itself that the data for the converted circuit is accurately recorded in the appropriate systems."

RESPONSE:

In addition to ensuring that the converted circuit is accurately recorded and updated in the appropriate systems, Qwest must ensure that each product is assigned to the appropriate Overall Control Office (OCO) and Maintenance Control Office (MCO) because orders and repair tickets for UNES are handled by different work groups (test centers) than for private lines. The Omaha OCO/MCO handles UNE orders and repair tickets while the Des Moines, Denver, Salt Lake and Seattle OCO/MCOs handle Private Line orders and repair tickets. This means that the records for the circuit must be removed from the billing and downstream systems that support UNES and must be populated in the billing and downstream systems that support Access Services.

Also, as discussed in response to data request 01-007, there are a number of activities in the conversion process, such as manually reviewing WFADI and WFADO, whose purpose is to ensure that work steps have not been loaded to the central office or the field that would result in the interruption of service to the CLEC's end-user customer during the conversion.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-010

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 010

[Million Direct] Why is a manual review of WFADI and WFADO required in a case where there is no dispatch?

RESPONSE:

The WFA tables are set up so that normally they don't create WFADI or WFADO steps when the orders follow a pre-defined set of rules. However if something in the order causes it to be outside of the pre-defined rules (e.g. missing related order number RO), WFADI or WFADO steps can be systemically generated. Un-necessary WFADI and WFADO steps increase the risk of disconnecting a customer in error and/or an un-necessary dispatch. Therefore the tester must review WFADI and WFADO and cancel un-needed steps.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-016

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 016

[Million Direct pages 5 - 7] Please explain what activities the SDC performs to change a circuit ID and why this step requires manual intervention.

RESPONSE:

If the circuit ID is for a Common Language Facility-type circuit ID (CLF), the circuit must be manually named or verified by the SDC. For Common Language Serial numbered (CLS) circuit IDs, it is most efficient, and minimizes the risk of the customer being taken out of service, to reuse the serial number portion of the circuit ID whenever possible. In order to do so, the SDC manually changes the CLCI identifier code by overtyping a new code on the service order to be used with the existing serial number. This activity also requires the SDC to first manually validate that the serial number is not currently in use with the new CLCI for another customer's circuit. If the serial number cannot be reused, the SDC must type the appropriate commands to generate a new circuit ID.

In all cases for Private Line service, manual steps are required to generate, retain or assign a circuit ID. This is not a case of manual "intervention" into an automated process, however, as there is no instance where an order would pass through systems to be assigned a circuit ID without human assistance.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-017

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 017

[Million Direct page 6] Please explain precisely what is being reviewed for accuracy when the SDC checks the accuracy of data. Would this step be necessary if there were electronic flow through between the systems?

RESPONSE:

The SDC verifies multiple pieces of information provided on the service order by the customer to ensure that the activity to be performed is clear and that the circuit being converted is specifically identified in order to avoid billing and service problems. The review includes:

1. Verification that the circuit ID provided belongs to the customer submitting the request. This avoids working on the wrong customer's circuit or divulging CPNI.
2. Verification that the circuit ID that is provided matches the address information that is provided.
3. Verification that the information on the order for CFA and signaling match the information that Qwest has in its records for this circuit. If not, the SDC must determine whether it is the customer's intent to request a change, or whether the information provided is accurate.
4. Verification that the BTN that is provided by the customer matches Qwest's records for that circuit, again to ensure that the correct circuit is being converted.

Finally, while the electronic flow-through that is apparently suggested by this request does not exist, it would not impact this step nevertheless. In fact, despite electronic screening in the QROA gateway, the SDCs reject hundreds of ASRs monthly because of inaccurate or invalid information contained on the ASRs that CLECs submit.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-018

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 018

[Million Direct pages 5 - 7] Please explain why it is necessary for the Designer to review and validate the circuit design for a circuit that is already in place, designed, and serving an end user customer.

RESPONSE:

The manual review and validation processes that the Designer performs are intended to interrupt an otherwise mechanized downstream flow that is initiated with the record-in and record-out orders in order to ensure that no physical changes in facilities or equipment that would disrupt service to the CLEC's end-user customer have occurred. In other words, because of the mechanization in Qwest's processes, the systems may attempt to initiate activity that would cause changes to the existing circuit. Qwest's conversion process, however, has been developed to interrupt those mechanized flows and review and validate the process at various points to ensure that unintended changes to the existing circuit do not occur.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-021

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 021

[Million Direct page 7] Please explain what provisioning is taking place for  
a circuit that is already in place and serving an end user customer.

RESPONSE:

Please see the work steps detailed in the UNE to Private Line Conversion cost  
study provided in response to data request 01-005. There are a variety of  
steps that Qwest performs in order to process the order-in and order-out  
activity associated with the conversion. As described in response to Joint  
CLECs 01-008, in addition to record update activities and changing of work  
group responsibilities, Qwest must ensure that none of its automated or  
mechanized processes result in unintended changes or disruption of service to  
the CLEC's end-user customer.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-022

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 022

Joint CLEC Request 01-022: [Million Direct pages 7 - 9] Is there any time when Qwest changed the code used to maintain its inventory of circuits and did not change the embedded base of circuits to the new format?

RESPONSE:

Prior to April 2005, Qwest did not require a change to the circuit IDs when a CLEC requested conversions from Private Line/Special Access to EEL; these circuits retained the Private Line service code modifiers. However, because of the difficulty this practice caused with Qwest's ability to track these products correctly in its systems, effective April 8, 2005, Qwest began utilizing the industry standard service code modifiers specific to EEL, and also established service code modifiers specific to Loop Mux Combo (LMC). Circuit IDs were required to be changed to reflect the new service code modifiers on all new requests, as well as new conversion requests from Private Lines to EEL/LMC and change orders on existing EEL/LMC circuits. Qwest also implemented the changes to those EEL and LMC Loops in the embedded base.

There were some CLECs that requested to opt out of the changes to their embedded base, which Qwest allowed. Those circuits remaining in the EEL/LMC embedded base with a Private Line circuit ID represent less than 7% of the total circuits impacted by the UNE to Private Line conversions. These circuits will retain their Private Line circuit IDs when they are converted from EEL/LMC to Private Lines. The conversion cost study has been adjusted to reflect those circuits that do not require circuit ID changes as part of the conversion process.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-023

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 023

[Million Direct pages 7 - 9] When Qwest implemented changes to the circuit ID in the embedded based of EEL / LMC circuits what portion of the impacted lines belonged to CLECs that opted out of changes to the circuit ID of their embedded based?

RESPONSE:

Please see the response to Joint CLECs 01-022; 100% of the less than 7% of UNE lines that have a Private Line circuit ID belong to CLECs that opted out of changes to the circuit ID of their embedded base.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-025

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 025

[Million Direct pages 7 - 9] Please confirm that EEL circuits, where Qwest historically did not change the circuit ID, are being managed properly in the PD/PAP in Arizona.

RESPONSE:

Yes, EEL circuits are being managed properly in the PID/PAP reporting in Arizona. However, as discussed in response to Joint CLECs 01-022, because the circuit IDs do not properly reflect the products to which they are assigned, Qwest has difficulty tracking the EEL circuits in its systems, and therefore must manually track those circuits in order to report them properly. For that reason, effective April 8, 2005, Qwest has required changes to the circuit ID on all new requests, conversions and change orders on existing EEL/LMC circuits.

Respondent: Terri Million, Staff Director

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-029

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 029

[Million Direct pages 11 & 12] Please specifically identify the rate, and section of the FCC interstate tariff containing that rate, along with a description of the rate element, that Qwest proposes to charge to CLECs converting from UNEs to Private Line facilities.

RESPONSE:

A description of the Design Change charge is contained in section 5.2.2(C) of Qwest's F.C.C. No. 1 Access Service tariff. While the language contained in the interstate tariff does not specifically describe the activities attendant with the conversion of a UNE to a Private Line, Qwest is in the process of clarifying its tariff language to better address such conversions. The rate for the Design Change charge is \$50. Of course, if a CLEC were to convert its UNE circuits to intrastate Private Line services, then the Design Change charge from the applicable intrastate tariff would apply.

Respondent: Terri Million

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-032

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 032

[Torrence Direct, page 12] Qwest filed a fiber-based collocation list with  
the FCC in February 2005. Please clarify the time period represented by that  
fiber based collocation list.

RESPONSE:

The list of fiber-based collocators included in the FCC filing in February  
2005 included collocators operational through the date of the filing.

Respondent: Ryan Gallagher, Qwest Manager

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-033

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 033

[Torrence Direct] Did Qwest include in its count of fiber based collocations collocation-to-collocation arrangements, i.e. situations where a collocated carrier does not own or control (under an IRU) transmission facilities leaving the wire center but is utilizing the fiber facilities of another carrier through a cross-connect to the second carrier's collocation? If the answer is yes, please explain the rationale and support for counting such arrangements.

RESPONSE:

No.

Respondent: Ryan Gallagher, Qwest Manager

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-037

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 037

[Teitzel Direct page 10] Please describe any effort Qwest made to remove residential loop counts from the CLEC UNE loop data, including but not limited to the number of residential loops removed and how Qwest determined that the lines were residential. If Qwest did not remove residential UNE loop data, please provide the number of residential loops that Qwest included within the total CLEC UNE loop data.

RESPONSE:

As described on pages 14-19 of Mr. Teitzel's testimony, Qwest did not attempt to remove residential loop counts from the CLEC UNE loop data. In fact, such a removal would not be in compliance with the requirements of the TRRO. Qwest does not know whether a UNE loop purchased by a CLEC serves a residential or business customer, and therefore cannot determine the number of residential loops included in the UNE loop data.

Respondent: Dave Teitzel

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-038

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 038

[Teitzel Direct page 10] Please describe any effort Qwest made to remove non-switched line counts from the CLEC UNE loop data, including but not limited to the number of non-switched lines removed and how Qwest determined that the lines were non-switched lines. If Qwest did not remove non-switched lines from the UNE loop data, please provide the number of non-switched lines that Qwest included within the total CLEC LINE loop data.

RESPONSE:

Qwest did not attempt to remove non-switched loop counts from the CLEC UNE loop data. In fact, such a removal would not be in compliance with the requirements of the TRRO implementation rules at 47 CFR 51.5 which mandates that all UNE loops in a wire center must be included in the "business line" count. Qwest does not know whether a UNE loop purchased by a CLEC is used to provide switched or non-switched services, and therefore cannot determine the number of non-switched loops included in the UNE loop data.

Respondent: Dave Teitzel

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-040

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 040

For the ICONN Database titled, "Central Office Find" ([http://www.qwest.com/cgi-bin/iconn/iconn\\_centraloffice.pl?function=3](http://www.qwest.com/cgi-bin/iconn/iconn_centraloffice.pl?function=3)) please provide the following information:

- A. Does the line count information in this table represent end of year 2005 line counts?
- B. Is the line count information in this table updated on an annual basis? If not, please indicate when and how often it is updated.
- C. In terms of the types of lines included in the :line Business NAL line counts, please identify all of the differences in methodology, if any, between the way the lines are counted for this table and the way Qwest has counted them for the purposes of this proceeding.
- D. Please provide the "Central Office Find" table for Arizona representing line counts as of February 2005. If the line counts are only updated on an annual basis, then please provide the table for end of year 2004.

RESPONSE:

- A. The residence and business Network Access Lines ("NALs") shown in the referenced "Central Office Find" file represent year end 2005 data.
- B. The residence and business NALs data in the Central Office Find report is updated annually.
- C. The NAL quantities in the ICONN Central Office Find report are different than the access line quantities relied upon by Qwest per the guidelines of the TRRO. For example, the NALs in the Central Office Find report do not include any wholesale UNE-L, UNE-P and QPP lines. The NAL data also do not reflect the full capacity of switched DS1 and DS3 business lines as required by the TRRO and associated TRRO implementation rules.
- D. Qwest objects to this data request on the grounds that it is irrelevant and does not bear upon, or reasonably could lead to matters that bear upon, any issue in this proceeding, especially because Qwest's use of December 2003 data is consistent with the data the FCC analyzed in making its non-impairment decisions in the TRRO, and is also the data that was available when the FCC directed Qwest and the other RBOCs to submit the list of wire centers that meet the non-impairment criteria. See e.g., TRRO, ¶ 105 ("The BOC wire center data that we analyze in this Order is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE loops"). The data which formed the basis for the FCC's analysis was ARMIS data from December 2003, which was filed in April 2004. This same data was also what was available on February 4, 2005 when the FCC directed Qwest and the other RBOCs to submit the list of wire centers that meet the FCC's non-impairment criteria. Consequently, the use of December 2003 data is not only appropriate, it is consistent with the FCC's intent to base determinations on "an objective set of data that incumbent LECs already have created for other regulatory purposes." TRRO, ¶ 105.

Respondent: Dave Teitzel

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-041

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 041

For the ICONN Database titled "Loop Table" (<http://www.qwest.com/cgi-bin/iconn/dlc.cgi>) please provide the following information:

- A. Does the column titled "loops in service" include both switched and non-switched loops?
- B. Please provide the loop count data from this table representing the same time period as the "Central Office Find" data referenced in the proceeding question.
- C. If Qwest contends that this report does not contain any high-capacity loops, please explain why high-capacity loops served over copper, UDLC or IDLC systems would be excluded from this table?

RESPONSE:

- A. The loop data shown in the ICONN "Loops in Service" report includes switched and non-switched loops, but does not include any high-capacity loops (e.g., ISDN-PRI loops, DS1/DS3 UNE loops, etc.). Thus, the loop counts in the "Loops in Service" report cannot be used to determine the business line counts as defined by the FCC in its TRRO order.
- B. Please see response to Joint CLEC data request 01-040(d).
- C. See response (a) above. The ICONN "Loops in Service" report was originally designed to report only 4 kHz loops and Qwest has consistently reported loop data in this report in that manner.

Respondent: Dave Teitzel

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-042

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 042

For each wire center where Qwest claims the wire center has reached a "non-impairment" threshold, please identify whether Qwest relied upon line counts and/or fiber based collocations to determine the wire center's status.

RESPONSE:

Following is a listing of each Arizona wire center Qwest has identified as non-impaired per the FCC's TRRO criteria, showing whether the non-impairment classification is based on "fiber collocation," "business lines" or "business lines and fiber collocation."

<u>Wire Center</u> <u>Non-impairment classification</u>	<u>Basis for non-impairment</u>
Phoenix East (Tier 1)	fiber collocation
Phoenix Main (Tier 1 and DS3 UNE loops)	business lines and fiber collocation
Phoenix Northeast (Tier 1)	fiber collocation
Phoenix North (Tier 1 and DS3 UNE loops)	business lines and fiber collocation
Scottsdale Thunderbird (Tier 1)	business lines
Tempe Main (Tier 1 and DS3 UNE loops)	business lines and fiber collocation
Tempe McClintock (Tier 1)	business lines
Mesa Main (Tier 2)	business lines
Scottsdale Main (Tier 2)	business lines
Tucson Main (Tier 2)	business lines

Respondent: Dave Teitzel

Arizona  
T-03632A-06-0091, et al.  
Joint CLECs 01-044

INTERVENOR: Covad Communications Co., Eschelon Telecom of Arizona, Inc.,  
McLeodUSA Telecomm. Services, Inc., and XO Communications Services, Inc.

REQUEST NO: 044

[Brigham Direct] Please provide data similar to what was provided in Joint  
CLEC Data Request 01-046 representative of March 2005. If March 2005 data is  
not available, please provide this data for end of year 2004.

RESPONSE:

Qwest objects to this data request on the grounds that it is irrelevant and  
does not bear upon, or reasonably could lead to matters that bear upon, any  
issue in this proceeding, especially because Qwest's use of December 2003  
data is consistent with the data the FCC analyzed in making its  
non-impairment decisions in the *TRRO*, and is also the data that was available  
when the FCC directed Qwest and the other RBOCs to submit the list of wire  
centers that meet the non-impairment criteria. See e.g., *TRRO*, ¶ 105 ("The  
BOC wire center data that we analyze in this Order is based on ARMIS 43-08  
business lines, plus business UNE-P, plus UNE loops"). The data which formed  
the basis for the FCC's analysis was ARMIS data from December 2003, which was  
filed in April 2004. This same data was also what was available on February  
4, 2005 when the FCC directed Qwest and the other RBOCs to submit the list of  
wire centers that meet the FCC's non-impairment criteria. Consequently, the  
use of December 2003 data is not only appropriate, it is consistent with the  
FCC's intent to base determinations on "an objective set of data that  
incumbent LECs already have created for other regulatory purposes." *TRRO*, ¶  
105.

Respondent: Qwest Legal  
Dave Teitzel

EXHIBIT

DD-2

**REDACTED**

EXHIBIT

DD-3

**REDACTED**

EXHIBIT

DD-4

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation	)	DOCKET UT-053025
Concerning the Status of Competition	)	
and Impact of the FCC's Triennial	)	ORDER 03
Review Remand Order on the	)	
Competitive Telecommunications	)	INITIAL ORDER REQUIRING
Environment in Washington State	)	DISCLOSURE OF ADDITIONAL
	)	INFORMATION
	)	
	)	<b>(Information due by Friday,</b>
	)	<b>April 28, 2006; Comments</b>
	)	<b>accepting or objecting to wire</b>
	)	<b>center designations due by</b>
.....	)	<b>Friday, May 5, 2006)</b>

1 **Synopsis.** *This order requires Qwest and Verizon to submit additional information to the Commission and interested persons by Friday, April 28, 2006, to allow the Commission to address the proper designation of wire centers in Qwest's and Verizon's service territory in Washington. Specifically, the order requires Qwest to submit December 2003 ARMIS 43-08 data, as filed with the FCC, showing actual business lines in use, rather than total capacity of its access lines. Verizon must provide an explanation of how it calculated its ARMIS 43-08 data and identify how it separates business and residential UNE-P lines in this data. Qwest and Verizon must respond to the Joint CLECs' data requests concerning fiber-based collocators in the wire centers in question. Verizon must also submit, as confidential, data concerning fiber-based collocators and business lines, as required by the Commission's order to disclose information. The order rejects all other requests for additional information.*

**SUMMARY**

2 **PROCEEDING.** In this proceeding, the Washington Utilities and Transportation Commission (Commission) will consider whether to issue an interpretive statement or policy statement addressing issues of competition in the telecommunications industry and challenges facing telecommunications carriers

following the Federal Communication Commission's (FCC) Triennial Review Remand Order (TRRO). The first part of this inquiry concerns Qwest Corporation's (Qwest) and Verizon Northwest Inc.'s (Verizon) designation of wire centers as non-impaired, or ineligible for access to high capacity loops and transport by competitors.

3 **INTERESTED PARTIES.** Lisa A. Anderl, Associate General Counsel, and Adam L. Sherr, Corporate Counsel, Seattle, Washington, represent Qwest. Timothy J. O'Connell and John H. Ridge, Stoel Rives LLP, Seattle, Washington, represent Verizon. Gregory J. Kopta and Sarah Wallace, Davis Wright Tremaine LLP, Seattle, Washington, represent Covad Communications Company (Covad), Eschelon Telecom of Washington, Inc. (Eschelon), Integra Telecom of Washington, Inc. (Integra), McLeodUSA Telecommunications Services, Inc., and XO Communications Services, Inc. (collectively Joint CLECs). Gregory Diamond, Denver, Colorado, represents Covad. Dennis Robins, Vancouver, Washington, represents Electric Lightwave, Inc. Karen Clausen, Minneapolis, Minnesota, represents Eschelon. Karen Johnson, Beaverton, Oregon, represents Integra. David Mittle, Santa Fe, New Mexico, represents Tel West Communications, LLC. Peter Healy, Olympia, Washington, represents TSS Digital Services, Inc. (TDS). Arthur A. Butler, Ater Wynne LLP, Seattle, Washington, represents the Washington Electronic Business and Telecommunications Coalition (WeBTEC). Simon J. ffitch and Judith Krebs, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel).

4 **DECISION.** This initial order considers the Joint CLECs' objections to data submitted by Qwest and Verizon, and requests for additional information. This order finds December 2003 data appropriate for evaluating Qwest's and Verizon's initial designation of non-impaired wire centers. The order requires Qwest to submit December 2003 ARMIS 43-08 data, as filed with the FCC, showing actual business lines in use, rather than total capacity of its access lines. Verizon must provide an explanation of how it calculated its ARMIS 43-08 data, and identify how it separates business and residential UNE-P lines in this data. Qwest and

Verizon must submit additional data concerning fiber-based collocators in the disputed wire centers. Verizon must also submit, as confidential, data concerning fiber-based collocators and business lines, as required by the Commission's order to disclose information. The order rejects all other Joint CLEC requests for additional information. Qwest and Verizon must submit the additional data and explanations on or before Friday, April 28, 2006, and interested persons may respond on or before Friday, May 5, 2006, accepting or objecting to the ILECs' wire center designations.

### MEMORANDUM

#### **A. Background**

5 On February 4, 2005, the FCC released its Order on Remand, also known as the Triennial Review Remand Order, or TRRO.<sup>1</sup> In the TRRO, the FCC reexamined whether competitors were impaired without unbundled access to certain network elements, pursuant to Section 251(c)(3) of the federal Telecommunications Act of 1996 (the Act).<sup>2</sup> In determining whether competitors are impaired without unbundled access to high-capacity loops and interoffice transport, the FCC looked to the number of fiber-based collocators in a wire center and the number of business lines terminating and leaving a wire center as indicia of competition. The FCC classified ILEC wire centers into three "tiers" – Tier 1, Tier 2 and Tier 3, "based on indicia of the potential revenues and suitability for competitive transport deployment."<sup>3</sup>

6 Wire centers designated as Tier 1 are considered the most competitive, and have four or more fiber-based collocations, or 38,000 or more business lines.<sup>4</sup> Tier 2

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<sup>1</sup> *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand, FCC 04-290 (rel. Feb. 4, 2005) [Hereinafter "*Triennial Review Remand Order*" or "*TRRO*"].

<sup>2</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>3</sup> *TRRO*, ¶ 111.

<sup>4</sup> *Id.*, ¶¶ 111-12.

wire centers have three or more fiber-based collocations or 24,000 or more business lines.<sup>5</sup> Tier 3 wire centers are those that are not Tier 1 or 2 wire centers.<sup>6</sup> Tier 1 and Tier 2 wire centers are considered “non-impaired,” such that competitors do not have unbundled access to high-capacity loops and transport in these wire centers.<sup>7</sup> Competitors continue to have unbundled access to these network elements in Tier 3 wire centers.<sup>8</sup>

7 The FCC defines fiber-based collocators as:

[A]ny carrier, unaffiliated with the incumbent [local exchange carrier] LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph. ... Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator.<sup>9</sup>

8 The FCC also defines a business line as:

[A]n incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all [unbundled network element] UNE loops connected to that wire center, including UNE loops provisioned in combination with other

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<sup>5</sup> *Id.*, ¶ 118.

<sup>6</sup> *Id.*, ¶ 123.

<sup>7</sup> *Id.*, ¶¶ 111, 118; *see also* ¶¶ 174, 178, in which the FCC classifies Tier 1 wire centers for purposes of access to DS3-capacity loops as having at least 38,000 business lines *and* four or more fiber-based collocators, and for DS1-capacity loops as having at least 60,000 business lines *and* four or more fiber-based collocators.

<sup>8</sup> *Id.*, ¶ 123.

<sup>9</sup> 47 C.F.R. § 51.5; *see also* TRRO, ¶ 102.

unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kpbs-equivalent as one line. For example, a DS1 line corresponds to 24 kpbs-equivalents, and therefore to 24 "business lines."<sup>10</sup>

The FCC explains that "business line counts are an objective set of data that incumbent LECs already have created for other regulatory purposes," and analyzed "ARMIS 43-08 business lines, plus business UNE-P, plus UNE-loops" in the TRRO.<sup>11</sup>

- 9 After the FCC issued the TRRO, the FCC's Wireline Competition Bureau requested that incumbent local exchange carriers (ILECs), such as Verizon and Qwest, submit lists of wire centers satisfying the TRRO's non-impairment criteria.<sup>12</sup> Qwest and Verizon submitted lists in February 2005 using the most recent data filed with the FCC, reflecting data collected through December 2003.

### **B. Procedural History**

- 10 The Commission held a workshop in this proceeding on February 1, 2006, concerning competition in the telecommunications industry and challenges facing telecommunications carriers after the TRRO. One of the primary issues identified in the workshop was the proper designation of wire centers in Washington meeting the FCC's non-impairment standards for UNE loops, high-capacity circuits and transport. In particular, competitive local exchange carriers (CLECs) attending the workshop questioned whether Qwest and Verizon had correctly designated certain wire centers as non-impaired for purposes of unbundled access to UNE loops, high-capacity circuits and transport.

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<sup>10</sup> 47 C.F.R. § 51.5.

<sup>11</sup> TRRO, ¶ 105.

<sup>12</sup> Joint CLEC Final Exceptions, ¶ 3.

11 The Commission held a conference on February 6, 2006, and established a schedule for obtaining information from Qwest and Verizon about the wire centers in question. The schedule provided an opportunity for interested parties to file exceptions to Qwest's and Verizon's data, for Qwest and Verizon to respond, and for interested parties to file final exceptions or state agreement with Qwest's and Verizon's designation of wire-centers.

12 At the request of the participating CLECs, Qwest and Verizon, the Commission entered Order 01 in this proceeding, a protective order, to allow interested persons who have filed appropriate exhibits to the protective order access to confidential and highly confidential information provided by Qwest and Verizon.

13 On February 21, the Commission entered Order 02, Order Requiring Disclosure of Information, requiring Qwest and Verizon to provide certain information to the Commission and interested persons.

14 Qwest and Verizon provided the Commission and interested persons with data on March 1. Both companies provided additional data within a week.

15 On March 8, the Joint CLECs submitted exceptions to Qwest's and Verizon's data and requested additional data. Qwest and Verizon filed responses to the Joint CLECs' exceptions on March 14, objecting to the requests for additional data.

16 On March 21, the Joint CLECs filed final exceptions and objections to Qwest's and Verizon's data supporting wire center designations. Public Counsel filed comments the same day asserting it premature for the Commission to decide on wire center designations. On March 28, Verizon filed comments responding to Public Counsel's comments.

### **C. Disputed Issues**

17 The Joint CLECs raise a number of concerns about the sufficiency of the data Qwest and Verizon use to designate certain wire centers as non-impaired, the

methods the ILECs use to calculate certain data and whether the data should be considered confidential or highly confidential. In essence, these issues are discovery disputes which must be resolved before the Commission can address the ultimate issue of the proper designation of wire centers in Qwest's and Verizon's service territory in Washington. Although the Joint CLECs appear to concede that Qwest has properly designated certain wire centers in Washington,<sup>13</sup> the Commission reserves ruling on these wire centers until Qwest and Verizon provide additional data in compliance with this order.

### 1. Age of the data

- 18 Each year on April 1, ILECs file annual network, financial and service quality data with the FCC's Automated Reporting Management Information System (ARMIS). For example, ILECs file 2005 data on April 1, 2006. The number of access lines in service is one type of data ILECs provide annually for FCC Report 43-08, the ARMIS Operating Data Report.<sup>14</sup> The parties refer to this data as ARMIS 43-08 data. In this proceeding, Qwest and Verizon provided ARMIS 43-08 data showing the number of access lines in wire centers as of December 2003.
- 19 The Joint CLECs assert the data Qwest and Verizon provide is out-dated. The Joint CLECs assert that the ILECs have more current data, as they collect data monthly and report to the FCC annually. The Joint CLECs assert that using 2003 access line counts may inflate the number of business lines serving the wire centers in question. The Joint CLECs assert both Qwest and Verizon claim that their access lines are declining, indicating there may be a significant difference between line counts as of December 2003 and March 2005, when the TRRO became effective.
- 20 The Joint CLECs assert it is irrelevant that the December 2003 ARMIS data was the most recent data on file on the effective date of the TRRO. The Joint CLECs request the Commission require Qwest and Verizon to provide ARMIS 43-08 data

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<sup>13</sup> *Id.*, n.2.

<sup>14</sup> See the FCC's website at [www.fcc.gov/wcb/armis/](http://www.fcc.gov/wcb/armis/).

as close as possible to March 11, 2005, the effective date of the TRRO. The Joint CLECs assert the ILECs should provide, at a bare minimum, the data from the April 1, 2005, ARMIS filing, which includes data through December 2004.

21 Qwest and Verizon assert that using 2003 ARMIS 43-08 data is appropriate, as it is the same data the FCC used in establishing wire center tiers in the TRRO, and the same data available when the FCC requested ILECs to submit lists of wire centers meeting the TRRO non-impairment criteria.<sup>15</sup> Qwest asserts the FCC has not requested updated data from the ILECs.<sup>16</sup> Verizon asserts that once a wire center meets a non-impairment threshold, it cannot later be reclassified as impaired.<sup>17</sup> Verizon asserts the Joint CLECs' request to use more recent data is an attempt to reclassify as impaired wire centers the company has already identified as non-impaired.

22 Qwest and Verizon assert the Joint CLECs' delay in requesting new data is unreasonable and using more recent data would only reward this delay.<sup>18</sup> Qwest further asserts that any decline in its business access lines is a sign of increasing competition in Washington, which supports limiting unbundled access to CLECs.<sup>19</sup>

23 ***Discussion and decision.*** It is reasonable for Verizon and Qwest to submit to the Commission December 2003 ARMIS data to support the designation of their initial list of "non-impaired" wire centers. It was the most recent data on file with the FCC at the time it entered the TRRO. The FCC used this data in establishing the wire center tiers. Qwest and Verizon used this data in filing their initial lists of non-impaired wire centers with the FCC.

24 The Joint CLECs appear to concede that certain wire centers may meet the TRRO's non-impairment criteria using this data, but seek updated data for the purpose of verifying the status of other wire centers. It would be inconsistent to

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<sup>15</sup> Qwest Response to Exceptions, ¶ 4; Verizon Response to Exceptions at 2.

<sup>16</sup> Qwest Response to Exceptions, ¶ 5.

<sup>17</sup> Verizon Response to Exceptions at 3 n.5, citing 47 C.F.R. § 51.319(e)(3)(i).

<sup>18</sup> Qwest Response to Exceptions, ¶ 6; Verizon Response to Exceptions at 3-4.

determine the initial list of non-impaired wire centers based on data from different time periods. Qwest and Verizon's use of December 2003 data for the purpose of determining the initial list of wire centers is appropriate. Therefore, the Joint CLECs' request for Qwest and Verizon to provide updated ARMIS 43-08 data is rejected. On a going-forward basis, however, Qwest and Verizon must submit the most recent ARMIS 43-08 data when seeking to add any new wire centers to the list of non-impaired wire centers the Commission resolves in this proceeding.

## 2. Method of calculating business lines

- 25 The Joint CLECs object to the way Qwest calculates the number of its own business lines.<sup>20</sup> The Joint CLECs assert Qwest inflates the number of its business lines serving a wire center by counting the full voice-grade capacity of DS1 and DS3 circuits, rather than just those circuits used to provide service to business customers. The Joint CLECs request the Commission direct Qwest to use only ARMIS 43-08 data for counting ILEC-owned business lines.<sup>21</sup>
- 26 Similarly, the Joint CLECs assert Qwest over-counts the number of CLEC UNE loops by including the total capacity of the UNE circuit rather than the actual circuits in use when calculating total business lines.<sup>22</sup> The Joint CLECs request the Commission direct Qwest to apply a utilization factor to determine the number of actual circuits in use.
- 27 The Joint CLECs assert the FCC intended, both in the TRRO and the definition of "business line" in Rule 51.5, that ILECs calculate the *actual* business lines served, not the capacity of the circuit. The Joint CLECs point to the first sentence of the FCC's rule: "A business line is an incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent itself or by a

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<sup>19</sup> Qwest Response to Exceptions, ¶ 6.

<sup>20</sup> The Joint CLECs state it is unclear whether Verizon has properly calculated its business line count, and requests the Commission require Verizon to verify that it has not altered the ARMIS 43-08 data. See Joint CLEC Exceptions, n.3.

<sup>21</sup> *Id.*, ¶ 8.

<sup>22</sup> *Id.*, ¶ 9.

competitive LEC that leases the line from the incumbent LEC.”<sup>23</sup> The Joint CLECs assert the FCC bases its definition of business lines in the TRRO on “ARMIS 43-08 business lines, plus business UNE-P, plus UNE loops.”<sup>24</sup> The Joint CLECs also rely on a decision of the South Carolina commission, which found the FCC intended to count actual lines in use, and did not intend in the TRRO and rules to alter the ILECs’ ARMIS business line count.<sup>25</sup>

28 Qwest asserts its method of calculating business line counts is based on the FCC’s business line definition. Qwest asserts the last two sentences of the FCC’s definition requires ILECs to base their business line counts on the capacity of the circuit, not actual lines served.<sup>26</sup> That portion of the definition provides:

Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services, (2) shall not include non-switched special access lines, (3) *shall account for ISDN and other digital access lines by counting each 64 kpbs-equivalent as one line. For example, a DS1 line corresponds to 24 kpbs-equivalents, and therefore to 24 “business lines.”*<sup>27</sup>

29 For UNE loops, Qwest asserts the FCC’s definition requires Qwest to count “all UNE loops connected to that wire center, including UNE loops provided in combination with other unbundled elements.”<sup>28</sup>

30 Qwest asserts the FCC intended the definition of “business line” to include “both actual and potential competition, based on an indicia of significant revenue

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<sup>23</sup> *Id.*, ¶ 6, citing 47 C.F.R. § 51.5.

<sup>24</sup> *Id.*, citing TRRO, ¶ 105.

<sup>25</sup> *Id.*, ¶¶ 7, 9, citing *In re Proceedings to Consider Amendments to Interconnection Agreements Between BellSouth Telecommunications, Inc., and Competing Local Providers Due to Changes of Law*, NC Utils. Comm’n Docket No. P-55, SUB 1549, Order Concerning Changes of Law at 67 (Mar. 1, 2006) [Hereinafter “North Carolina Order”].

<sup>26</sup> Qwest Response to Exceptions, ¶ 7.

<sup>27</sup> 47 C.F.R. § 51.5 (emphasis added).

<sup>28</sup> Qwest Response to Exceptions, ¶ 10, quoting 47 C.F.R. § 51.5.

opportunities at wire centers.<sup>29</sup> Qwest refers the Commission to the decisions of the Florida and Georgia commissions, which, it asserts, interpreted the FCC's business line definition and provisions of the TRRO to require ILECs to include unused capacity on high capacity loops when calculating the number of ILEC-owned business lines.<sup>30</sup> Qwest also refers to decisions by the Florida, Indiana, Illinois and Ohio commissions directing ILECs to count all UNE loops connected to wire centers.<sup>31</sup>

31 Verizon asserts it has used ARMIS 43-08 data to include only ILEC business lines for switched services in calculating the total number of business lines.<sup>32</sup> Verizon asserts the FCC's rule requires all UNE loops to be included in the calculation.<sup>33</sup>

32 ***Discussion and Decision.*** The FCC's definition includes three requirements for tallying business lines. The interpretation of these three requirements drives the dispute between the parties. The Joint CLECs' interpretation concerning ILEC-

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<sup>29</sup> *Id.*, ¶ 9, quoting TRRO, ¶ 88; *see also Id.*, ¶ 10, citing TRRO, ¶ 24.

<sup>30</sup> *Id.*, ¶ 9 citing *In re: Petition to Establish Generic Docket to Consider Amendments To Interconnection Agreements Resulting from Changes in Law*, by BellSouth Telecommunications, Inc., Fla. PSC Docket No. 041269-TP, Order No. PSC-06-0172-FOF-TP at 37 (Mar. 2, 2006) [Hereinafter "*Florida BellSouth Decision*"]; *In Re Generic Proceeding to Examine Issues Related to BellSouth Telecommunications, Inc.'s Obligations to Provide Unbundled Network Elements*, Docket No. 19341-U, Order on Remaining Issues at 20 (Mar. 2, 2006) [Hereinafter "*Georgia BellSouth Decision*"]. The last sentence in Qwest's quote from the Florida BellSouth Decision does not appear in the Florida decision. That additional language is stricken from Qwest's Response.

<sup>31</sup> *Id.*, ¶ 10, citing *Florida BellSouth Decision* at 39; *see also In the Matter of the Indiana Utility Regulatory Commission's investigation of Issues Related to the Implementation of the Federal Communications Commission's Triennial Review Remand Order and the Remaining Portions of the Triennial Review Order*, Cause No. 42857 at 16 (Jan. 11, 2006); *Petition for Arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 with Illinois Bell Telephone Company to Amend Existing Interconnection Agreements to Incorporate the Triennial Review Order and the Triennial Review Remand Order*, ICC Docket No. 05-0442, Arbitration Decision at 30 (Nov. 2, 2005); *In re Establishment of Terms and Conditions of an Interconnection Agreement Amendment*, PUCO Case No. 05-887-TP-UNC, Arbitration Award at 16 (Nov. 9, 2005).

<sup>32</sup> *Id.*, at 6.

<sup>33</sup> Verizon Response to Exceptions at 5-6.

owned access lines best captures the FCC's intent in how to count ILEC-owned business lines for purposes of identifying tiers of wire centers. Qwest and Verizon, however, are correct in counting all UNE loops connected to wire centers as business lines, regardless of whether they are actually used to serve customers.

33 In explaining its method, the FCC states:

[A]s we define them, business line counts are an objective set of data that incumbent LECs already have created for other regulatory purposes. The BOC wire center data that we analyze in this Order is based on ARMIS 43-08 business lines, plus business UNE-P, plus UNE loops. We adopt this definition of business lines because it fairly represents the business opportunities in a wire center, including business opportunities already being captured by competing carriers through the use of UNEs. Although it may provide a more complete picture to measure the number of business lines served by competing carriers entirely over competitive loop facilities in particular wire centers, such information is extremely difficult to obtain and verify. Conversely, by basing our definition in an ARMIS filing required of incumbent LECs, and adding UNE figures, which must also be reported, we can be confident in the accuracy of the thresholds, and a simplified ability to obtain the necessary information.<sup>34</sup>

The FCC does not discuss modifying the ILEC-owned business lines reported in ARMIS 43-08 data, referring to the data as "already ... created for other regulatory purposes," and providing "a simplified ability to obtain the necessary information."<sup>35</sup> While the FCC's rule states that a business line is an ILEC-owned or CLEC-leased switched access line "used to serve a business customer," the FCC also provides that its thresholds, based on in part on business lines, are intended to "capture both actual and potential competition."<sup>36</sup>

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<sup>34</sup> TRRO, ¶ 105.

<sup>35</sup> *Id.*

<sup>36</sup> 47 C.F.R. § 51.5; *see also* TRRO, ¶ 88.

34 The FCC's rule must be read consistently with the FCC's statements in the TRRO. To that end, the FCC's requirements for calculating, or tallying, the total number of business lines serving a wire center are most reasonably applied in part to ILEC-owned switched access lines, and in part to UNE loops. The first two listed requirements (i.e., that the access lines connect only actual customers and the number not include non-switched special access lines) are already considered in the switched access lines ILECs report to the FCC in ARMIS 43-08 data.<sup>37</sup> These requirements also logically apply to UNE-P lines, as they are switched access lines leased by competitors. The third requirement, that digital access lines be counted by voice-grade equivalents, should apply when ILECs count the number of UNE loops served by a wire center. Like the number of business lines served "entirely over competitive loop facilities in particular wire centers," the number of UNE loops in service "is extremely difficult to obtain and verify," as only CLECs can identify which lines serve business or residential customers. Thus, ILECs should include total capacity, not actual circuits in use, when calculating UNE loops, but not when calculating ILEC-owned or UNE-P business lines. Applying all three requirements to ILEC-owned access lines or to UNE loops would render the rule internally inconsistent, and inconsistent with the FCC's statements in the TRRO.

35 Thus, Qwest must submit its business line counts to include actual business lines as reported in its December 2003 ARMIS 43-08 data, without adjustment. Verizon must provide sufficient information to allow the Commission and interested persons to determine that Verizon did not alter its ARMIS 43-08 business line data. Qwest need not modify its calculation of UNE loops. Qwest and Verizon must provide the additional information only for the wire centers the Joint CLECS continue to dispute on or before April 28, 2006. The Joint CLECs and other interested persons may respond to Qwest's and Verizon's additional data on or before May 5, 2006, accepting or objecting to the ILECs' wire center designations.

### **3. Exclusion of residential UNE-P lines**

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<sup>37</sup> See North Carolina Order at 41-42.

- 36 As a part of its business line calculation, Qwest deducted UNE-P residential white pages directory listings from the total number of UNE-P lines to derive an estimate of business UNE-P lines.<sup>38</sup> The Joint CLECs assert that Qwest's method does not accurately count business UNE-P lines, claiming Qwest should count only those UNE-P lines in the business white pages of the directory data base.<sup>39</sup> The Joint CLECs assert Qwest provides no basis for its assertion that the majority of residential lines are listed, while the majority of business lines are not. The Joint CLECs also assert that after the FCC entered the TRRO, UNE-P lines were converted to Qwest's commercial offering, Qwest Platform Plus (QPP), which separately identifies lines as residential or business.<sup>40</sup> The Joint CLECs request that Qwest use QPP data to identify the number of business UNE-P lines in each wire center, as well as any UNE-P lines listed in the business white pages directory, for calculating business UNE-P lines.<sup>41</sup>
- 37 The Joint CLECs also assert Verizon provides no explanation for how it excluded UNE-P residential lines from the calculation of business lines.<sup>42</sup> The Joint CLECs note that Verizon states in response to Bench Request No. 3 (x) that UNE-P lines "are included in the business switched access lines provided in ARMIS 43-08" data. The Joint CLECs are concerned that Verizon has included all UNE-P lines as business lines, without removing residential lines. The Joint CLECs request the Commission order Verizon to explain how it excluded residential UNE-P lines from the calculation of business lines.
- 38 The Joint CLECs also claim that Qwest and Verizon should exclude UNE loops used to provide residential and non-switched services.<sup>43</sup> The Joint CLECs request the Commission follow the North Carolina commission's analysis and order Qwest and Verizon to exclude UNE loops used to provide residential service from

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<sup>38</sup> Joint CLEC Exceptions, ¶ 12, quoting Qwest Response to Bench Request No. 01-003 (x).

<sup>39</sup> *Id.*, ¶¶ 11-12.

<sup>40</sup> Joint CLEC Final Exceptions, ¶ 12.

<sup>41</sup> *Id.*, ¶ 13.

<sup>42</sup> *Id.*, ¶ 13.

<sup>43</sup> Joint CLEC Exceptions, ¶¶ 11-16.

the calculation of business lines,<sup>44</sup> and require Qwest and Verizon to exclude from business line counts any UNE loops used to provide non-switched services.

39 Qwest asserts its method of calculating business UNE-P lines is a conservative calculation it has used in other proceedings before the Commission, e.g., Dockets UT-003022 and UT-003040, the Section 271 proceeding, and Dockets UT-000883 and UT-030614, competitive classification proceedings.<sup>45</sup> Qwest asserts it would be inappropriate to count only business UNE-P white pages directory listings, as businesses often have more than one line and list only the main telephone number. Qwest asserts the Joint CLECs' method would artificially reduce the number of business lines and require additional and more complicated calculations.<sup>46</sup>

40 Qwest also objects to the Joint CLECs' effort to exclude UNE loops used to provide residential or non-switched service. Qwest asserts that excluding residential or non-switched UNE loops would be inconsistent with the FCC's decision to include all UNE loops in the business line calculation.<sup>47</sup> Qwest further asserts excluding these loops is "contrary to the FCC's intent to capture an accurate measure of the 'revenue opportunity' in a wire center."<sup>48</sup>

41 Verizon asserts it has included only business UNE-P lines reported in ARMIS 43-08 data, and did not include residential UNE-P lines. Verizon asserts it lists business and residential data separately on its ARMIS 43-08 report.<sup>49</sup> Further, Verizon asserts it is appropriate to include UNE loops used for residential and non-switched services in calculating business lines. Verizon asserts the FCC did not distinguish between business and residential UNE loops the way it did for ILEC-owned access lines and UNE-P lines, but requires ILECs to include "all UNE loops connected to that wire center, including UNE loops provisioned in

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<sup>44</sup> Joint CLEC Final Exceptions, ¶ 14.

<sup>45</sup> Qwest Response to Exceptions, ¶ 12.

<sup>46</sup> *Id.*, ¶ 13.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*, ¶ 14.

<sup>49</sup> Verizon Response to Exceptions at 4.

combination with other unbundled elements.”<sup>50</sup> Verizon also asserts that ILECs are not able to determine how a CLEC uses its UNE loops, or whether they are used to serve business or residential customers or for non-switched services.<sup>51</sup>

42 ***Discussion and decision.*** Qwest’s method for calculating business UNE-P lines is appropriate, as it is consistent with methods the Commission has accepted in past proceedings for calculating residential or business UNE-P lines. There is no need for Qwest to recalculate the data using QPP data or to count only business UNE-P white page listings.

43 It is not clear from the data Verizon provides whether or how it separated business and residential UNE-P lines. Verizon must provide a clear explanation on or before April 28, 2006, showing how it separately identifies business and residential UNE-P lines in its ARMIS 43-08 data. As with the business line count data discussed above, interested persons may respond to Verizon’s explanation on or before May 5, 2006.

44 The Joint CLECs request that Qwest and Verizon exclude from the business line calculation UNE loops used to serve residential customers and provide non-switched services is denied. The clear language of the TRRO and the FCC’s definition of “business line” demonstrate the FCC’s intent to include all UNE loops in the business line calculation. In the TRRO, the FCC calculated business lines based on “ARMIS 43-08 *business* lines, plus *business* UNE-P, plus UNE-loops.”<sup>52</sup> The FCC did not qualify the UNE loops it included as business UNE loops or non-switched UNE loops, but *all* UNE loops. Further, in its definition of business line, the FCC provided: “The number of business lines in a wire center shall equal the sum of all incumbent LEC *business* switched access lines, plus the sum of *all* UNE loops connected to that wire center, including UNE loops

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<sup>50</sup> *Id.*, at 5-6, quoting 47 C.F.R. § 51.5.

<sup>51</sup> *Id.*, at 5, 8.

<sup>52</sup> TRRO, ¶ 105 (emphasis added).

provisioned in combination with other unbundled elements.”<sup>53</sup> All UNE loops should be included in the business line calculation.

#### 4. Supporting data for identifying fiber collocators

45 The Joint CLECs claim that neither Qwest nor Verizon provide sufficient data to verify the collocators they identify are “fiber-based collocators” as defined by the FCC.<sup>54</sup> The Joint CLECs request that the Commission require Qwest and Verizon to provide more detailed information for wire centers where the ILECs rely on the number of fiber-based collocators to show non-impairment. Specifically, the Joint CLECs request that the ILECs respond to data requests with data showing “each fiber-based collocator connects its collocated equipment directly to its own fiber-optic network without relying on ILEC UNEs or cross-connects to other collocated carriers” and that the collocators were fiber-based collocators as of March 11, 2005.<sup>55</sup>

46 Qwest asserts that no additional information is necessary. Qwest based its calculation of fiber-based collocators on the FCC’s definition and discussion in the TRRO.<sup>56</sup> Qwest used data from December 2003, removed any collocations that were terminated between December 2003 and February 2005, and then physically verified the power supply to the collocation and whether there was fiber terminating at the collocation and leaving the wire center.<sup>57</sup> Qwest asserts it consulted with CLECs to verify the data, and corrected the data based on feedback from CLECs.<sup>58</sup>

47 Similarly, Verizon objects to the Joint CLECs’ request for additional data. Verizon used data from physical inspections of collocations to determine whether

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<sup>53</sup> 47 C.F.R. § 51.5 (emphasis added).

<sup>54</sup> Joint CLEC Exceptions, ¶ 17.

<sup>55</sup> *Id.*; see also Joint CLEC Proposed Follow-up Data Requests, No. 5 (Qwest) and Nos. 5 and 6 (Verizon).

<sup>56</sup> Qwest Response to Exceptions, ¶¶ 16-17.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

a collocator met the FCC's definition of a "fiber-based collocator," then verified the data by notifying CLECs of its designation of a wire-center as non-impaired.<sup>59</sup> Verizon asserts it has not received any actual data from any CLEC challenging its identification as a fiber-based collocator.<sup>60</sup>

48 The Joint CLECs assert that the failure of CLECs to respond to Qwest's and Verizon's attempts to verify data does not mean the data is accurate. The Joint CLECs assert specific additional information will allow them to determine if Qwest's and Verizon's designations are accurate.

49 ***Discussion and decision.*** Qwest and Verizon must respond to the Joint CLECs' data requests concerning identification of fiber-based collocators in the wire centers the Joint CLECs continue to dispute by April 28, 2006, providing a copy of their responses to the Commission. The information is relevant, is apparently available, does not pose an undue burden on the ILECs, and would allow the Commission and Joint CLECs to verify the non-impairment designation of wire centers. The remaining uncertainty over a few wire centers can be resolved with little additional effort by Qwest and Verizon.

50 Qwest must respond to Data Request No. 5 and Verizon must respond to Data Request Nos. 5 and 6, attached to the Joint CLEC Exceptions filed on March 8, 2006. The Joint CLECs and other interested persons may respond to the ILECs' data on or before May 5, 2006, accepting or objecting to the ILECs' wire center designations.

#### **5. Designation of data as highly confidential**

51 Verizon provided information in response to the Commission's order requiring disclosure of information, designating the information as highly confidential. The

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<sup>59</sup> Verizon Response to Exceptions at 8-9.

<sup>60</sup> *Id.*, at 9.

Joint CLECs object to the designation of the information as highly confidential, asserting the information is not highly confidential and that such a designation is inconsistent with discussions during the workshop.<sup>61</sup> The Joint CLECs request the Commission require Verizon to resubmit the information as confidential to allow appropriate in-house personnel to review the data.<sup>62</sup>

52 Verizon asserts it properly designated non-masked CLEC-specific information as highly confidential to protect customer-specific information from being shared beyond attorneys in this proceeding in light of its obligations under Section 222 of the Act.<sup>63</sup> Verizon asserts it will not disclose this information subject to lesser protection without an express order of the Commission.<sup>64</sup> Verizon asserts that there is no need to share this information among non-attorneys, as the un-masked data clearly allows for verification of collocation arrangements.<sup>65</sup>

53 ***Discussion and decision.*** Verizon must provide the information, as confidential: Verizon agreed to do so during the February 6, 2006, conference, and the Commission directed Verizon to do so in Order 02, Order Requiring Disclosure of Information.

54 During the conference, Verizon's counsel specifically agreed that it was appropriate to provide the identity of fiber-based collocators and aggregate CLEC line counts as confidential, not highly confidential, information.<sup>66</sup> Verizon's counsel further agreed that a protective order and Commission order requiring such disclosure would address its concerns about complying with Section 222.<sup>67</sup> In Order 02, the Commission ordered the disclosure of information, in light of the concerns over Section 222:

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<sup>61</sup> Joint CLEC Exceptions at 8.

<sup>62</sup> *Id.*

<sup>63</sup> Verizon Response to Exceptions at 9-10.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> TR 19:14 – 20:9 (O'Connell).

<sup>67</sup> TR 9:16 – 10:22 (O'Connell).

In order to address the CLECs' concerns over the proper designation of non-impaired wire centers, the Commission requires information from Qwest and Verizon. The nature of the Commission's inquiry in this proceeding requires masking identifying information for certain data, a method the Commission has used in the past when collecting wire center data. After consulting with participants in the workshop and scheduling conference, the Commission requests that Qwest and Verizon provide the identify of fiber-based collocators as confidential information, but mask the identity of CLEC business lines by masking the data or assigning the CLEC a code. While Qwest and Verizon must provide Commission staff with access to all codes, Qwest and Verizon must only provide each CLEC seeking access to the information with the individual CLEC's assigned code.<sup>68</sup>

The Commission also recognized the ILECs' concerns over Section 222 in the Protective Order entered in this proceeding.<sup>69</sup>

55 Given these two orders and Verizon's agreement during the conference, Verizon submission of the information as highly confidential failed to comply with the requirements in Order 02. Verizon must resubmit its information in response to Order 02, as confidential, on or before April 28, 2006, masking the data as appropriate and providing the individual CLECs with their own masking code. Interested persons may respond to Verizon's data on or before May 5, 2006, accepting or objecting to Verizon's wire center designations.

### **FINDINGS OF FACT**

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<sup>68</sup> *In the Matter of the Investigation Concerning the Status of Competition and Impact of the FCC's Triennial Review Remand Order on the Competitive Telecommunications Environment in Washington State*, Docket UT-053025, Order 02, Order Requiring Disclosure of Information ¶ 7 (Feb. 21, 2006); *see also Id.*, ¶ 8.

<sup>69</sup> *In the Matter of the Investigation Concerning the Status of Competition and Impact of the FCC's Triennial Review Remand Order on the Competitive Telecommunications Environment in Washington State*, Docket UT-053025, Order 01, Protective Order ¶ 3 (Feb. 10, 2006).

56 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary findings of fact, incorporating by reference pertinent portions of the preceding detailed findings:

- 57 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates and conditions of service of telecommunications companies within the state, and to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the Telecommunications Act of 1996.
- 58 (2) Verizon Northwest Inc. and Qwest Corporation are incumbent Local Exchange Companies, or ILECs, providing local exchange telecommunications service to the public for compensation within the state of Washington.
- 59 (3) Covad Communications Company, Electric Lightwave, Inc., Eschelon Telecom of Washington, Inc., Integra Telecom of Washington, Inc., McLeodUSA Telecommunications Services, Inc., Tel West Communications, LLC, TSS Digital Services, Inc., and XO Communications Services, Inc., are local exchange carriers within the definition of 47 U.S.C. § 153(26), providing local exchange telecommunications service to the public for compensation within the state of Washington, or are classified as competitive telecommunications companies under RCW 80.36.310 - .330.
- 60 (4) The FCC's Triennial Review Remand Order finds competitive local exchange carriers are not impaired under Section 251 of the Telecommunications Act of 1996 without access to high capacity loops and transport, if the wire centers serving the loops and transport meet certain criteria.

- 61 (5) The FCC established in the Triennial Review Remand Order the number of “fiber-based collocators” in a wire center and the number of “business lines” serving a wire center as the criteria for determining whether a wire center is non-impaired for purposes of CLEC access to high capacity loops and transport.
- 62 (6) In response to the FCC’s order, Qwest and Verizon, as well as other ILECs across the nation, filed with the FCC in February 2005 lists of wire centers meeting the FCC’s non-impairment criteria.
- 63 (7) In Order 02 in this proceeding, the Commission ordered Qwest and Verizon to provide certain information to the Commission and interested persons to allow the Commission to determine whether Qwest and Verizon properly designated certain wire centers in Washington State as non-impaired.
- 64 (8) Qwest and Verizon provided information in response to the Commission’s Order 02 on March 1, 2006.
- 65 (9) The Joint CLECs object to the sufficiency of the data, as well as the methods Qwest and Verizon used in calculating certain data.
- 66 (10) Qwest and Verizon submitted to the Commission data based on ARMIS 43-08 data reported to the FCC, reflecting 2003 annual data.
- 67 (11) The FCC used 2003 ARMIS 43-08 data in determining the criteria for wire center non-impairment, and ILECs used 2003 ARMIS 43-08 data in submitting lists of non-impaired wire centers to the FCC in March 2005.
- 68 (12) It is unclear from the data Verizon provides whether or how it separated business and residential UNE-P lines.

- 69 (13) The FCC's definition of "business line" in 47 C.F.R. § 51.5, and statements in the Triennial Review Remand Order, provide the basis for determining how ILECs should calculate the number of business lines under the FCC's non-impairment criteria.
- 70 (14) Qwest calculates the number of business UNE-P lines serving wire centers by deducting the number of residential UNE-P white page listings from the total number of UNE-P lines.
- 71 (15) Paragraphs 7 and 8 of the Commission's Order 02 required Qwest and Verizon to provide information as confidential to allow the Commission and interested persons to evaluate the data and protect customer proprietary network information.
- 72 (16) During the February 6, 2006, conference, Verizon agreed to provide the identity of fiber-based collocators and masked data concerning CLEC business lines as confidential, pursuant to a protective order.
- 73 (17) Verizon provided information in response to the Commission's Order 02 by designating the information as highly confidential, not confidential.

#### CONCLUSIONS OF LAW

- 74 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions:
- 75 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.

- 76 (2) It is reasonable for Verizon and Qwest to submit to the Commission December 2003 ARMIS data to support the designation of their initial lists of non-impaired wire centers pursuant to the TRRO because the FCC used this data to establish the non-impairment criteria and the companies used this data in providing lists of non-impaired wire centers to the FCC in March 2005.
- 77 (3) Applying data from different time periods to determine the initial list of non-impaired wire centers, as the Joint CLECs suggest, would be inconsistent.
- 78 (4) The FCC's requirements in its rule defining "business line" for calculating the total number of business lines serving a wire center are most reasonably applied in part to ILEC-owned switched access lines, and in part to UNE loops. Applying all three requirements to ILEC-owned access lines or to UNE loops would render the rule internally inconsistent, and inconsistent with the FCC's statements in the TRRO.
- 79 (5) The first two listed requirements in the FCC's rule defining "business line," i.e., that the access lines connect only actual customers and the number not include non-switched special access lines, are already factored into the switched access lines ILECs report to the FCC in ARMIS 43-08 data. These requirements also logically apply to UNE-P lines, as they are switched access lines leased by competitors.
- 80 (6) The third requirement in the FCC's rule defining "business line," that digital access lines be counted by voice-grade equivalents, should apply when ILECs count the number of UNE loops served by a wire center. Like the number of business lines served "entirely over competitive loop facilities in particular wire centers," the number of UNE loops in service "is extremely difficult to obtain and verify," as only CLECs can identify which lines serve business or residential customers.

- 81 (7) For purposes of calculating total business lines under the FCC's rule, ILECs should include actual circuits in use when calculating ILEC-owned business lines and business UNE-P lines, but should include the total capacity of circuits, not actual circuits in use, when calculating UNE loops.
- 82 (8) Qwest's method of calculating business UNE-P lines is appropriate and consistent with methods the Commission has accepted in prior proceedings for calculating residential or business UNE-P lines.
- 83 (9) All UNE loops should be included in the calculation of business lines for determining whether a wire center meets the non-impairment criteria. The FCC did not distinguish in paragraph 105 of the TRRO between business and other UNE loops, but included *all* UNE loops in the calculation. In its definition of "business line", the FCC provided: "The number of business lines in a wire center shall equal the sum of all incumbent LEC *business* switched access lines, plus the sum of *all UNE loops* connected to that wire center, including UNE loops provisioned in combination with other unbundled elements." 47 C.F.R. § 51.5 (*emphasis added*).
- 84 (10) Providing additional information about fiber-based collocators in certain wire centers would not pose an undue burden on Qwest and Verizon and would allow the Commission and Joint CLECs to verify the non-impairment designation of wire centers in Washington.
- 85 (11) By submitting information to the Commission as highly confidential, Verizon failed to comply with the requirements of the Commission's Order 02.

### ORDER

86 **THE COMMISSION ORDERS:**

- 87 (1) Qwest Corporation and Verizon Northwest Inc. must submit to the Commission and interested persons on or before April 28, 2006, business

line counts showing actual business lines as reporting in their December 2003 ARMIS 43-08 data, without adjusting the data to reflect the total capacity of access lines. The companies must provide this information only for those wire centers the Joint CLECs continue to dispute.

- 88 (2) If Qwest Corporation and Verizon Northwest Inc. seek to designate additional wire centers as non-impaired in the future, the companies must provide to the Commission the most recently filed ARMIS 43-08 data to support the designation.
- 89 (3) Verizon Northwest Inc. must provide a detailed explanation to the Commission and interested persons on or before April 28, 2006, showing how the company calculated its December 2003 ARMIS 43-08 business access line data and how the company separately identified business and residential UNE-P lines in this data.
- 90 (4) Qwest Corporation and Verizon Northwest Inc. must respond to the Joint CLECs' data requests regarding identification of fiber-based collocators, only for those wire centers the Joint CLECs continue to dispute, on or before April 28, 2006.
- 91 (5) As required in the Commission's Order 02, Order Requiring Disclosure of Information, Verizon Northwest Inc. must resubmit, as confidential, on or before April 28, 2006, all information concerning the identity of fiber-based collocators and masked data identifying CLEC business lines.
- 92 (6) Except as the Joint CLECs' requests for additional information are granted in this order, the Joint CLECs' data requests, or requests for additional information, are denied.
- 93 (7) The Commission retains jurisdiction to effectuate the terms of this order.

Dated at Olympia, Washington, and effective April 20, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL,  
Administrative Law Judge

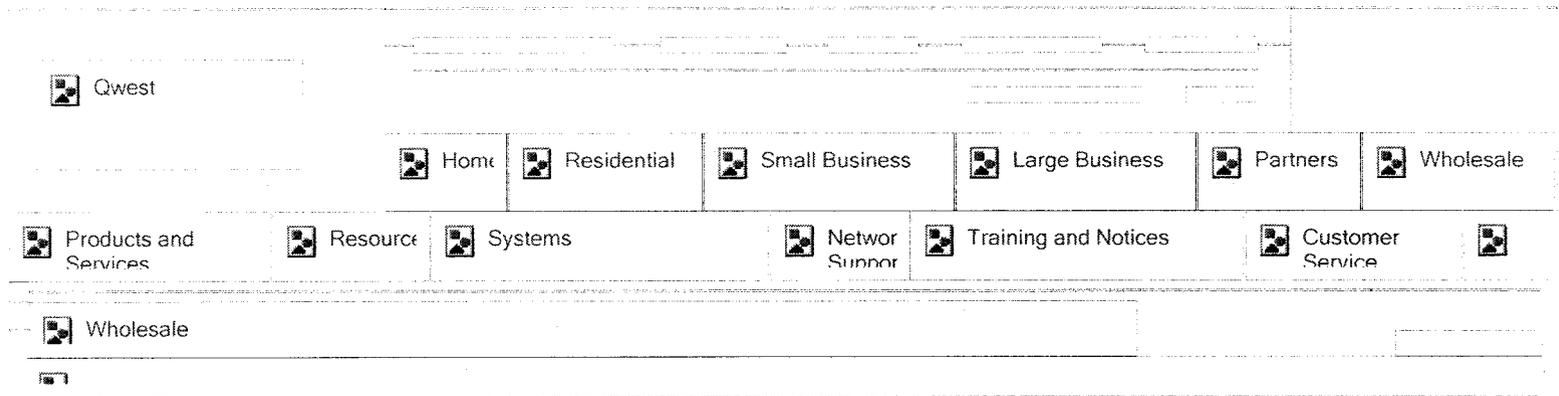
**NOTICE TO THE PARTIES**

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

EXHIBIT

DD-5



**Products & Services**

**Local Business Procedures**

**Local Business Procedures**

[View More Local Resale Non-Facility Based Business Procedures](#)

[View More Local Interconnection Facility Based Business Procedures](#)

**TRRO Compliance and Transition Procedures - V3.0**

[History Log](#)

**Description**

This document is provided for customers who have signed the TRRO compliant agreement/amendment. Transition procedures to alternative arrangements are outlined below.

As a result of the TRRO Order, CLECs are required to amend contracts to be TRRO compliant and may have services that require transition to alternate arrangements. Impacted products, (including those that require transition to alternative arrangements), rates and compliance activities are detailed in the amendment to the ICA. Your [Qwest Service Manager](#) will assist you with compliance and transition activities.

**Non-Impairment Criteria**

Non-Impairment criteria and product specific details can be obtained by viewing the following TRRO products and services PCATs:

- [TRRO - Enhanced Extended Loop \(EEL\)](#)
- [TRRO - Loop Mux Combination \(LMC\)](#)
- [TRRO - Unbundled Dark Fiber \(UDF\)](#)
- [TRRO - Unbundled Local Loop Digital Signal Level 1 \(DS1\) Capable Loop](#)
- [TRRO - Unbundled Local Loop Digital Signal Level 3 \(DS3\) Capable Loop](#)
- [TRRO - Unbundled Local Loop - General Information](#)
- [TRRO - Unbundled Dedicated Interoffice Transport \(UDIT\)](#)

Qwest wire centers that meet the non-impairment criteria established in the TRRO for DS1 and DS3 loops and DS1, DS3, and dark fiber transport can be viewed at [Qwest Non-Impaired Wire Center Lists for](#)

Loops and Dedicated Transport.

UNE to Private Line/Special Access Transition Procedures

If you choose to convert your TRRO impacted UNEs "As Is" to Qwest's Private Line or Special Access Tariff Services, they will be converted using a single ASR per circuit to establish the UNE as a PLT or SA circuit. Qwest will issue the appropriate service orders from the ASR. A "Conversion As Is" involves a change in billing and may also involve a change in circuit ID. There is no physical work performed to the circuit with a "Conversion As Is". Provisioning changes and additional options are not allowed.

**Initiating a Transition**

1	CLEC signs TRRO amendment
2	Service Manager will help identify services that are impacted by the TRRO and will require transition to an alternate arrangement.
3	Service Manager will contact CLEC to assist in developing a transition plan. Service Manager will provide information to assist the CLEC in choosing the appropriate options.

**Specific ASR entries**

The following are key ASR entries specific for "Conversion As Is" from existing UNE services to Private Line/Special Access Services. Consult with your Service Manager for the range of options, guidance and project procedures.

ASR Field	Valid Entries
ACT	C
PROJECT	UNETOPLT
ECCKT	UNE circuit ID (A new PLT/Circuit ID will be provided on FOC)
RMK	TRRO Transition from UNE to PLT. Records change only. No physical work. Reuse facilities. UNE Billing Number
UNE	Must be Blank

If you currently have circuits in which only a segment of the circuit is impacted by the TRRO and you choose to retain the impaired segment at UNE pricing; you may do a "Conversion As Specified." Two circuits of the same bandwidth are created and commingled together, utilizing a PLT Central Office Connecting Channel (COCC). The UNE circuit will in most cases retain the current UNE

circuit ID and a new circuit ID will be provided with the new PLT/SA circuit. Two requests are required with a "Conversion As Specified." Additional information may be found under [EEL Commingling Conversion Requests](#) and under [UDIT Commingling Conversion Requests](#) in the Ordering sections of the [TRRO - Enhanced Extended Loop \(EEL\)](#) and [TRRO - Unbundled Dedicated Interoffice Transport \(UDIT\) PCATs](#).

Pricing

### Rate Structure

For the transition of circuits "As Is" from UNE to Private Line/Special Access Services that are a result of an office or transport route being declared non-impaired under the FCC's guidelines, and is no longer required under Section 251 due to TRO/TRRO, Qwest will charge the tariffed nonrecurring Design Change Charge.

### Tariffs, Regulations and Policies

Qwest Private Line and or Special Access Products and Services information, regulations and policies are located in the state specific [Tariffs/Catalogs/Price Lists](#).

### Billing

Customer Records and Information System (CRIS) billing is described in [Billing Information - Customer Records and Information System \(CRIS\)](#).

Integrated Access Billing System (IABS) billing is described in [Billing Information - Integrated Access Billing System \(IABS™\)](#).

Contacts

Qwest contact information is located in [Wholesale Customer Contacts](#).

Frequently Asked Questions (FAQs)

This section is being compiled based on your feedback

**Last Update: April 14, 2006**

**EXHIBIT**

**DD-6**

## Resources

## Change Management Process (CMP)

## Archived System CR SCR083005-01 Detail

## Title: Implement Edits Related to TRRO (FCC 04-290)

CR Number	Current Status Date	Level of Effort	Interface/ Release No.	Area Impacted	Products Impacted
SCR083005-01	Withdrawn 3/15/2006	1500 - 2000	IMA Common/	Ordering	UBL, EEL, LMC, DS1 & DS3 Loop and/or Transport

**Originator:** Hooper, Sami

**Originator Company Name:** Qwest Corporation

**Owner:** Hooper, Sami

**Director:** Bliss, Susan

**CR PM:** Esquibel-Reed, Peggy

**Description Of Change**

This is a Regulatory Change Request.

The FCC's Triennial Review Remand Order (TRRO), FCC 04-290 (WC Docket No. 04-313 and CC Docket No. 01-338) released February 4, 2005, modified the rules under which Qwest is required to offer DS1 and DS3, loops and transport as Unbundled Network Elements (UNEs) pursuant to section 251(c)(3) of the Telecommunications Act of 1934, as amended. The FCC ordered impairment criteria impacts DS1 and DS3 loops and transport. Due to the volume of customers that have opted into the TRRO Amendment, Qwest needs to implement edits in those states, for those customer's, where a TRRO has been filed, in their states.

No new or conversion activity is allowed in non-impaired offices on Unbundled Loop, EEL, and Loop Mux Combination (LMC). DS1 and DS3 loops and/or transport will be identified by wire center where the requirements of full competition are met.

This CR will install an edit in IMA to reject requests for service in non-impaired offices on UBL, EEL, LMC, DS1 and DS3 loop and/or transport.

Additionally, on EEL and LMC the SPEC field on the LSR will be utilized to identify the request as EEL Loop, EEL Multiplexer, LMC Loop, or LMC Multiplexer. The product name in IMA for these products will be updated from EEL/UNE Combination to EEL/LMC to match the names in the product catalogs.

#### Expected Deliverable:

Requested Implementation is the IMA 19.0 Release, April 2006, due to the volume of customers that have opted into the TRRO Amendment, Qwest needs to implement edits in those states, for those customer's, where a TRRO has been filed, in their states.

#### Status History

Date	Action	Description
3/15/2006	Discussed at Monthly CMP Meeting	Discussed at the March Systems CMP Monthly Meeting; please see the March Systems CMP Distribution Package, Attachment G
8/30/2005	CR Submitted	
8/30/2005	CR Acknowledged	
8/31/2005	Communicator Issued	CMPR.08.31.05.F.03232.RegulatoryCRSubmitted
9/6/2005	Clarification Meeting Held	
9/21/2005	Discussed at Monthly CMP Meeting	Discussed at the September Systems CMP Monthly Meeting; please see the September Systems CMP Distribution Package, Attachment D

#### Project Meetings

March 15, 2006 Systems CMP Meeting Discussion: Jill Martain-Qwest stated that this CR had been out for awhile, is currently in deferred status, and stated that Qwest would now like to withdraw this CR. Jill stated that if Qwest determines, at a later date, that a system enhancement is needed, Qwest would issue another CR. This CR is in withdrawn status.

September 21, 2005 Systems CMP Meeting Discussion: Jill Martain/Qwest stated that based on other issues that are in progress, in and outside of CMP, Qwest will defer this CR and will remove the Regulatory (RG) classification. Jill stated that once the issues are resolved, the CR will be taken out of deferred status and we would have further discussions regarding this Change Request. Jill noted that there is no need for a vote to take place during the September Monthly CMP Meeting. There were no questions or comments. This CR is in Deferred Status.

-- September 8, 2005 Email Received from Covad: Covad objects to the "regulatory" classification of SCR083005-01. To preface, the CMP document clearly spells out the scope of regulatory CRs and the process for a regulatory designation and this change request does not meet those qualifications. In addition, Covad believes a regulatory designation is inappropriate due to the following:

(a) Currently, Qwest is obligated to provision all orders for services out of arguably unimpaired COs so edits attempting to prevent ordering out of COs Qwest has unilaterally designates as unimpaired is impermissible;

(b) the good faith, self-certification requirement imposed by the TRRO for ordering should accommodate any concerns Qwest may have regarding orders placed out of arguably unimpaired COs; and (c) since Qwest, to date, has made it impossible for any CLEC or state commission to validate whether a CO is unimpaired further reinforces that the only legitimate way to accommodate arguable changes of law resulting from the TRRO is the self-certification process.

Since Covad has not yet executed the TRRO amendment, and since Qwest has not articulated any legitimate reason for using system edits versus the self-certification process, Covad believes that Qwest may not permissibly use any system edits for orders placed by Covad.  
Thanks, Liz Balvin Covad Communications

September 6, 2005 Email Received from Eschelon: Eschelon objects to the classification of this CR as a Regulatory CR. Qwest's CR is response to freely negotiated amendments. These were negotiated without arbitration. Qwest was not ordered to limit its product availability and could do more. The FCC sets out a minimum. In addition, this change is contrary to the FCC's self certification process. Under that process, Qwest cannot reject an order when the CLEC self certifies. If Qwest and other CLEC's have agreed to a different process that is voluntary and does not support a Regulatory CR. Eschelon understands that the changes apply only to certain customers that signed the TRO amendment., therefore, the edits/changes, in any event, will not apply to Eschelon or ATI. Bonnie J. Johnson Director Carrier Relations Eschelon Telecom, Inc.

September 1, 2005 Email Received from AT&T: AT&T objects to the treatment of the Qwest-originated change request SCR083005-01RG as a Regulatory Change pursuant to the Change Management Process. Section 4.1 defines a regulatory change: 4.1 Regulatory Change A Regulatory Change is mandated by regulatory or legal entities, such as the Federal Communications Commission (FCC), a state commission/authority, or state and federal courts. Regulatory changes are not voluntary but are requisite to comply with newly passed legislation, regulatory requirements, or court rulings. Either the CLEC or Qwest may originate the Change Request. The definition states that

the "Regulatory changes are not voluntary but are requisite to comply with newly passed legislation, regulatory requirements, or court rulings." The FCC's Triennial Review Remand Order Qwest referenced in Qwest's CR simply relieved Qwest of certain obligations under federal law. That ruling did not mandate that Qwest no longer provide the products and services relating to those obligations. Qwest has voluntarily chosen to cease providing these services. As such, this Qwest CR does not qualify as a Regulatory Change under the CMP. If Qwest wishes to pursue these changes, Qwest's CR must be treated as any other systems CR. Sharon Van Meter AT&T Western Region  
GAM 303-699-6483 303-540-1637 (pager)

September 1, 2005 Clarification: Introduction of Attendees: Sami Hooper-Qwest, Jill Martain-Qwest, Peggy Esquibel Reed-Qwest

Review Requested (Description of) Change: Peggy Esquibel Reed-Qwest reviewed the CR and asked if there was additional information. Sami Hooper-Qwest stated that there is no additional information.

Confirmed Impacted Area(s): Peggy Esquibel Reed-Qwest confirmed that this request is for Ordering.

Confirmed Impacted Interfaces: Peggy Esquibel Reed-Qwest confirmed that this is an impact to IMA Common.

Confirmed Impacted Products: Peggy Esquibel Reed-Qwest confirmed the impacted products UBL, EEL, LMC, DS1 & DS3 Loop and/or Transport.

Establish Action Plan & Resolution Time Frame: Peggy Esquibel Reed-Qwest stated that Sami will present this CR at the September 21, 2005 Systems CMP Meeting. Peggy then noted that the Regulatory Notice was sent on 8/31 and that the deadline for objections, for the Regulatory classification, is 5:00 p.m. MT, September 8th.

- August 31, 2005 Regulatory Notifaction Sent:  
CMPR.08.31.05.F.03232.RegulatoryCRSubmitted

#### **QWEST Response**

 Back

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**Information Current as of 5/15/2006**

EXHIBIT

DD-7

Docket No. UT-053025

Verizon Northwest Inc. Responses to WUTC Staff Information Request Set 1 Nos. 1-4

February 28, 2006

**INFORMATION REQUEST NO. 4:**

If the calculation of number of lines (or inclusion of certain lines) is based on a directive from the FCC as Qwest has indicated during the workshop, please provide the detailed citations of the FCC's decision(s).

**Response:**

Verizon's calculations were based upon the FCC's TRRO, Appendix B – Final Rules, § 51.5 (terms and definitions of a business line).

Prepared By: Robert Graves

Date: 02/24/06

Witness: N/A

**EXHIBIT**

**DD-8**



July 11, 2006

Doug Denney  
Eschelon Telecom Inc.  
730 2nd Av S Suite 900  
Minneapolis, MN 55402  
dkdenney@eschelon.com

TO: Doug Denney

<b>Announcement Date:</b>	<b>July 11, 2006</b>
<b>Effective Date:</b>	<b>Immediately</b>
<b>Document Number:</b>	<b>GENL.07.11.06.B001643.Information_Req_Joint_CLECs</b>
<b>Notification Category:</b>	<b>General Notice</b>
<b>Target Audience:</b>	<b>Select CLECs</b>
<b>Subject:</b>	<b>Joint CLECs First Set of Data Requests to Qwest Information Request No.</b>

**Please ensure that this letter is routed to those individuals within your company or agency who are responsible for maintaining your telephone services in the state of Arizona.**

In a case pending before the Arizona Corporation Commission, Docket No. T-03632A-06-0091, et al. "In the Matter of the Application of DIECA Comm. DBA Covad Comm. Co., Eschelon Telecom of Arizona, Inc., McLeodUSA Telecom. Services, Inc., XO Comm. Services, Inc., and Qwest Corp. Request for Commission Process to Address Key UNE Issues Arising From Triennial Review Remand Order, Including Approval of Qwest Wire Center Lists ", Qwest has received a data request from the Joint CLECs to produce the following which involves wire center and business line information:

43. Please provide the following line count information for each wire center in Arizona where Qwest relies upon line counts to determine the "non-impairment" status of a wire center.

- (a) The total number of business lines as defined in 47 C.F.R. § 51.5.
- (b) The date on which the business line counts data was calculated. Note: If different components of the business line counts come from sources representing different points in time, then each component should be identified and the corresponding date for each component provided.
- (c) Total ILEC business switched access lines that Qwest used as a component of part (a).
- (d) If the methodology used to determine the line counts in (c) above differ from the methodology used to determine switched business line counts for ARMIS 43-08, describe the differences and any data that would allow the Commission or participants to reconcile this data, such as was provided to CLECs in the Washington.
- (e) Total UNE Loops for each CLEC that Qwest used as a component to part (a). Provide this data so that the CLEC name is masked. Please provide each CLEC, who is a party to this case, information so that the CLEC can identify its own line counts.

- (f) Number of UNE Loops as a component to part (e), for each CLEC (masked), provided in combination with Qwest switching (e.g. UNE-P, QPP, or other ILEC Commercial arrangement).
- (g) Number of UNE Loops as a component to part (f), for each CLEC (masked), where the ILEC does not provide switching.
- (h) If the sum of the results in part (f) and (g) do not equal (e), please provide additional data, along with a description, so that these counts can be reconciled.
- (i) Please indicate whether the number of loops provided in response to part (f) and (g) include loops used to serve residential customers.
- (j) Please indicate whether the number of loops provided in response to part (g) includes non-switched loops.
- (k) Provide all underlying data, calculations and any description used to count digital access lines on a 64-kbps-equivalent basis for the counts in (f) and (g) above.
- (l) Please verify that line counts associated with remote switch locations are associated with the remote' and not the host switch. If this is not the case, explain why not.

This letter is to notify you of this data request, and to provide you a reasonable opportunity to object to Qwest producing information on a Competitively Sensitive, Trade Secret basis. If Qwest does not hear back from you by July 18, 2006, we will consider you to have consented to the release of this information to the Joint CLECs.

Absent your filing a formal protest against the production of this information, Qwest plans to produce this information on July 20, 2006. We request, therefore, that you notify us of any concerns regarding this production prior to that date. If you decide to lodge a protest regarding the upcoming production, the protest should be lodged directly with the Arizona Corporation Commission Utilities. Please provide notice to Qwest of the filed protest by sending a copy to me at the contact information above.

If you have any questions, please contact Qwest's attorneys, Norm Curtright at 602 630 2187 or [norm.curtright@qwest.com](mailto:norm.curtright@qwest.com); or Alex Duarte at 503-242-5623 or [alex.duarte@qwest.com](mailto:alex.duarte@qwest.com). Thank you for your assistance and cooperation in this matter.

Sincerely,

Qwest Corporation

Note: In cases of conflict between the changes implemented through this notification and any CLEC interconnection agreement (whether based on the Qwest SGAT or not), the rates, terms and conditions of such interconnection agreement shall prevail as between Qwest and the CLEC party to such interconnection agreement.

The Qwest Wholesale Web Site provides a comprehensive catalog of detailed information on Qwest products and services including specific descriptions on doing business with Qwest. All information provided on the site describes current activities and process. Prior to any modifications to existing activities or processes described on the web site, wholesale customers will receive written notification announcing the upcoming change.

If you would like to unsubscribe to mailouts please go to the "Subscribe/Unsubscribe" web site and follow the unsubscribe instructions. The site is located at:

<http://www.qwest.com/wholesale/notices/cnla/maillist.html>

cc: Joshua Nielsen

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