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BEFORE THE ARIZONA CORPORATION COMMISSION

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**COMMISSIONERS**

2006 OCT 20 A 11: 50

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

AZ CORP COMMISSION
DOCUMENT CONTROL

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

Staff of the Arizona Corporation Commission ("Staff") hereby files the Rebuttal Testimony of Armando F. Fimbres of the Utilities Division, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 20th day of October 2006.

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# REBUTTAL

# TESTIMONY

# OF

# ARMANDO FIMBRES

**DOCKET NOS. T-03632A-06-0091**
**T-03406A-06-0091, T-03267A-06-0091**
**T-03432A-06-0091, T-04302A-06-0091**
**AND T-01051B-06-0091**

**IN THE MATTER OF THE APPLICATION OF DIECA COMMUNICATIONS DBA COVAD COMMUNICATIONS COMPANY, ESCHELON TELECOM OF ARIZONA, INC., MCLEODUSA TELECOMMUNICATIONS SERVICES, INC., MOUNTAIN TELECOMMUNICATIONS, INC., XO COMMUNICATIONS SERVICE, 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**

**OCTOBER 20, 2006**

**BEFORE THE ARIZONA CORPORATION COMMISSION**

JEFF HATCH-MILLER
Chairman
WILLIAM A. MUNDELL
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
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REBUTTAL

TESTIMONY

OF

ARMANDO FIMBRES

PUBLIC UTILITIES ANALYST V

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

OCTOBER 20, 2006

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**EXECUTIVE SUMMARY**
**DIECA COMMUNICAITONS dba**
**COVAD COMMUNICATIONS COMPANY ET AL**
**DOCKET NOS. T-03632A-06-0091 ET AL**

Having considered the Rebuttal Testimony of the Joint CLECs and Qwest filed on October 6, 2006, Staff continues to support the following recommendations included in its September 22, 2006 testimony. That:

1. The use of December 2004 ARMIS 43-08 data. Qwest should be required to provide its initial Non-Impaired Wire Center list and supporting information including Fiber-Based Collocator data and UNE data based upon year-end 2004 within 30 days of a Commission order.

2. ARMIS business line count data should be used as reported to the FCC, with no adjustments.

3. CLEC residential and non-switched lines should be included in the UNE-loop data.

4. EELs should be included in the UNE-loop data.

5. Qwest should be allowed to block UNE orders only for wire centers on an approved Commission Non-Impaired Wire Center List.

6. Qwest and the Joint CLECs utilize the Change Management Process to develop a permanent UNE blocking process to be implemented within 12 months of a Commission order in this proceeding.

7. Qwest should waive all conversion charges for converting UNE to private line circuits or its equivalent, similar to what Qwest did when it waived its conversion charges associated with UNE-P cutovers.

8. The process for future changes to Non-Impaired Wire Centers designations should be commenced by a Qwest petition to the Commission, with copies to the Joint CLECs and the Staff. Parties to the Commission proceeding should have 60 days to file comments on Qwest's petition and to request a hearing. The ALJ should issue a Recommended Opinion and Order for decision by the Commission.

Staff revises the following recommendations included in its September 22, 2006 testimony. That:

9. Qwest and the Joint CLECs submit an interim UNE blocking process to Staff for approval within 60 days of a Commission order in this proceeding. <u>However, Staff</u>

will support Qwest and the Joint CLECs if collectively they do not see the need for this process.

Staff adds the following recommendations to those in its September 22, 2006 testimony. That:

10. Regardless of the data vintage, affiliated fiber-based collocators should not be counted separately if their legal affiliation exists at the date of Commission order designating a non-impaired wire center.

## 1. INTRODUCTION

**Q. Please state your name, occupation, and business address.**

A. My name is Armando Fimbres. I am a Public Utilities Analyst V employed by the Arizona Corporation Commission ("ACC" or "Commission") in the Utilities Division ("Staff"). My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

**Q. Have you previously filed testimony in this proceeding.**

A. Yes. I filed testimony on behalf of Staff on September 22, 2006.

## 2. BACKGROUND

**Q. What is the purpose of your testimony?**

A. Staff's testimony responds to the Rebuttal Testimony filed by Mr. Denney, on behalf of the Joint CLECs, and Ms. Albersheim, Mr. Teitzel, Ms. Torrence and Ms. Million, on behalf of Qwest, on October 6, 2006.

## 3. STAFF'S REPONSE TO JOINT CLECS WITNESS MR. DENNEY'S REBUTTAL TESTIMONY

**Q. Do the Joint CLECs disagree with Staff's methodology for counting CLEC lines?**

A. Yes. Mr. Denney disagrees with Staff's recommendation to include residential and non-switched UNE loop data for the purposes of determining non-impairment. At page 7, Mr. Denney argues as he did in his initial testimony that the "FCC rule specifically excludes non-switched lines from the switched business line count calculations."

**Q. Does Staff agree with Mr. Denney's argument?**

A. No. Staff disagrees. 47 CFR, section 51.5, of the TRRO clearly states that "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." (emphasis added) The rule clearly differentiates between business lines for switched services and all UNE loops which the rule does not limit to switched services or business loops. In addition, from a reporting perspective it would be difficult if not impossible for Qwest to know what services the CLEC was providing to its customers on a UNE loop leased in a Qwest wire center.

In addition, Mr. Denney disagrees with Staff's inclusion of Enhanced Extended Loops ("EELs") in the UNE loop count. Once again, it is Staff's position that the FCC Rule, by use of the words "all UNE loops", does not allow for the exclusion of a UNE loop based on the specific service provided over that loop.

**Q. Do the Joint CLECs and Qwest agree on the treatment of high capacity lines?**

A. No. There continues to be a disagreement involving high-capacity lines. Staff is in agreement with the Joint CLECs that the high-capacity lines reported in ARMIS should not be adjusted. However, Staff's position departs from that of the Joint CLECs with respect to the inclusion of maximum capacity for UNE loops. It is Staff's position, based on 47 CFR, § 51.5, of the TRRO, that maximum capacity should be utilized in the calculation.

**Q. Do you agree with the Joint CLECs analysis of Wire Centers for each Party in Table 9 on page 10 of Mr. Denney's rebuttal testimony?**

A. No. Staff has decided not to present any detailed analysis of the 2003 or 2004 ARMIS data until a decision has been made regarding the vintage of business line data. However, the information the Joint CLECs present in Table 9 suggests that only 10 Qwest wire

centers would be subject to a non-impairment[1] designation. The remainder of Qwest's Arizona wire centers, approximately 170, would be classified as "impaired" under the criteria used by Staff, the Joint CLECs, and Qwest. Assuming the Joint CLECs' analysis of the Parties' positions is correct, the degree of non-impairment is in dispute for only 4 wire centers.

**Q. Do the Joint CLECs agree with Staff's recommendations regarding updates to the non-impaired wire center list?**

A. No. In my direct testimony, I recommended the following.

(1) The process for updating the non-impaired wire center count on the basis of lines should be done only once a year. Changes based on fiber-based collocation can be done at any time as long as the process is orderly and allows all participants the opportunity for input.

(2) In new applications, Qwest should provide the Joint CLECs and Staff the same factual evidence in this proceeding to determine non-impaired wire centers.

(3) The Commission's interpretations of the TRRO resulting from this proceeding should apply to subsequent proceedings as well.

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[1] Standard 1 defines wire centers that are non-impaired with respect to DS1 local loops.

- at least 60,000 business lines AND at least 4 fiber-based collocators.

Standard 2 defines wire centers that are non-impaired with respect to DS3 local loops.

- at least 38,000 business lines AND at least 4 fiber-based collocators.

Standard 3 defines wire centers that are non-impaired with respect to DS1 interoffice transport, if the wire centers at both ends meet the standard. By this standard a wire center is also known at as a Tier 1 wire center.

- at least 38,000 business lines OR at least 4 fiber-based collocators.

Standard 4 defines wire centers that are non-impaired with respect to DS3 interoffice transport, if the wire centers at both ends meet the standard. By this standard a wire center is also known as a Tier 2 wire center.

- at least 24,000 business lines OR at least 3 fiber-based collocators.

Wire centers not meeting the Tier 1 or Tier 2 standards are by default designated Tier 3, or Impaired.

(4) Once an application is filed CLECs and Staff would have 60 days to comment. If there are no disputes, Hearing would prepare a Recommended Opinion and Order.

(5) The transition from UNEs would occur within 90 days of a Commission Decision.

(6) The issue of back-billing is rendered moot given Staff's position in (5) above.

The Joint CLECs advocated that Qwest provide notice of wire centers that are close to reaching the non-impaired status. However, Staff believes that CLECs have sufficient independent knowledge of competitive conditions which may lead to the designation of a wire center as non-impaired. The CLECs would be better served by utilizing independent research and their strategic resources rather than relying upon infrequent notices of marginal value from their key competitor. The Commission may wish to consider a compromise position by which Qwest could provide information for a specific wire center at the request of any CLEC. Qwest could provide the information by posting it to a secure website location available to the Joint CLECs. This would minimize the burden on Qwest.

The Joint CLECs also disagree with Staff's proposed 90 day transition period. Mr. Denney argues that the time period proposed by Staff is too short to investigate the availability of alternative arrangements and to make the alternative arrangements. He also argues that the FCC allowed for a one-year transition period for DS1 and DS3 transport. However, Staff believes that the one-year transition period referenced in paragraph 5 of the TRRO was from the effective day of the TRRO.[2] In addition, the CLECs have been on notice since the TRRO was released on February 4, 2005, that a transition in non-impaired wire centers would be necessary. Moreover, Qwest filed its list of revised

[2] Paragraph 227, TRRO, "Consequently, carriers have twelve months from the effective date of this Order to modify their interconnection agreements, including completing any change of law processes. By the end of the twelve month period, requesting carriers must transition the affected mass market local circuit switching UNEs to alternative facilities or arrangements."

unimpaired wire centers with the FCC on July 8, 2005 which the CLECs have access to. Given this, the additional 90 days provided by Staff should be sufficient for any transitions due to the initial designations of the Commission as well as future designations.

**Q. Do the Joint CLECs agree with Staff's position regarding Qwest having the ability to block CLEC orders in non-impaired wire centers?**

A. No. At page 16, Mr. Denney states the following "The Joint CLECs ... do not believe Qwest has the legal right to block CLEC orders without CLEC consent." Under Staff's proposal Qwest would only have the right to block CLEC orders if the wire center is on a Commission approved of non-impaired wire centers. Since, pursuant to the FCC's order, CLECs are not entitled to UNEs in non-impaired wire centers, Staff does not believe that further CLEC consent is necessary or appropriate.

**Q. Do the Joint CLECs agree with Staff's position regarding the conversion process for non-impaired wire centers?**

A. No. The Joint CLECs agree with Staff that Qwest should waive all charges for converting all UNEs. However, the Joint CLECs disagree with Staff that accurate record keeping will require Qwest to change some of its circuit IDs. Regardless, Qwest identified no associated change in services or facilities for customers converting from UNEs to private lines or their equivalent so there still appears to be no value gained by the CLECs. Based on Staff's understanding the circuit ID is driven by Qwest's needs not the CLECs. Staff believes the CLECs should not have to pay for changes for which no value is realized by them.

**Q. At page 20, the Joint CLECs request "...the ability to directly address this issue (circuit ID) through further testimony". Does Staff agree?**

A. No. The Joint CLECs could easily have addressed this matter in their testimony since Qwest's position was clear in its Direct Testimony and the Joint CLECs have likely encountered the specifics of Qwest's opposition on this issue in other states. This subject, and the position taken by Qwest, should not be a surprise to the Joint CLECs.

**4. STAFF'S REPONSE TO QWEST WITNESS MS. ALBERSHEIM'S REUBTTAL TESTIMONY**

**Q. Does Qwest agree with Staff's process for updating the list of non-impaired wire centers?**

A. No. Staff's September 26, 2006, outlined a more extensive process than Qwest supports. At page 2, Ms. Albersheim continues to support a 30 day notification period after which the designation would become effective consistent with a tariff-like approach. Staff takes exception to this type of abbreviated process and believes that a 60 comment period should be utilized by the Commission. Recognizing the permanence of the non-impaired wire center designation requires, on balance, a process that ensures thoughtful consideration upfront for that which cannot be reversed at a later date.

**Q. At page 3, as part of the process for updating the list of non-impaired wire centers, Ms. Albersheim proposes that the Commission establish a standing non-disclosure agreement or protective order. Does Staff agree?**

A. No. Staff does not see a need for entry of an additional protective order in this docket. Staff believes that the existing protective order would apply to all future filings in this proceeding.

**Q. At page 4 of her Rebuttal Testimony, Ms. Albersheim lists the data that Qwest proposes to provide in future filings that a wire center has met the business line threshold. Do you agree with her list?**

A. No. I agree with her statement that Qwest needs to provide sufficient detail to allow the CLECs to validate access line and fiber-based collocator counts. However, the information provided by Qwest, and the calculations used to derive 64 kbps equivalents, must conform to the Commission's ruling on the issues in this case.

**Q. At page 9, Ms. Albersheim states that an interim process for blocking orders in non-impaired wire centers is not necessary. How does Staff respond?**

A. While Staff supports the use of the Change Management Process ("CMP") process, the interim process was offered by Staff as a means to expedite the transition for Qwest and the Joint CLECs. Without an interim process, Qwest would not be able to block orders in a non-impaired wire center until the CMP process was concluded. Staff will withdraw its recommendation for an interim process if neither Qwest nor the Joint CLECs see the need.

**Q. At page 13, Ms. Albersheim states on Qwest's behalf that "a formal proceeding should only be necessary if there is an objection to the addition of a wire center." How does Staff respond?**

A. If adding a wire center to the non-impaired list were a matter of minor consequence, Staff would agree with Qwest. However, as Staff indicated earlier, a wire center designation change that cannot be reversed nor relitigated is not of minor consequence. Staff recommended process incorporates safeguards to ensure that any change made will not be done without careful and considered evaluation. While Staff agrees that a hearing should only be required if requested by a party, the process should still incorporate a

Recommended Opinion and Order by the Hearing Division for consideration by the Commission even where no hearing is required.

**5. STAFF'S REPONSE TO QWEST WITNESS MR. TEITZEL'S REBUTTAL TESTIMONY**

**Q. What portions of Staff's testimony does Mr. Teitzel address?**

A. Mr. Teitzel addresses two specific recommendations made by Staff. First, Mr. Teitzel disagrees with Staff's recommendation that Qwest be required to use 2004 ARMIS data for its initial non-impaired wire center list. Second, Mr. Teitzel disagrees with Staff's recommendation that Qwest be required to use unadjusted ARMIS data in its non-impairment analysis.

**Q. At page 5, Mr. Teitzel states that Staff echo's "Mr. Denney's recommendation that 2004 business line data should be used to validate Qwest's initial non-impaired wire center list". Does Staff agree with Mr. Teitzel's statement?**

A. No. In fact, Staff objects vigorously to Mr. Teitzel's inference that Staff is echoing anyone's position. Staff believes that 2004 ARMIS data is more appropriately used than 2003 data for the following reasons. First, 2004 data was the most current data when the FCC entered its TRRO order. As I stated in my initial testimony, it is preferable to use the most current information available. Just because the data was not filed in ARMIS format when the FCC entered its TRRO does not make its use inappropriate. Second, the FCC did not specify in its TRRO order that 2003 ARMIS data was required. Third, Staff does support the use of 2004 ARMIS data but not to "validate" the results using 2003 ARMIS data as implied by Mr. Teitzel. Staff supports the use of 2004 ARMIS data in place of the 2003 ARMIS data used by Qwest in its testimony.

In support of its position, Staff did not present any detailed analysis of the 2003 ARMIS data in its September 22, 2006 testimony and will not review the 2004 ARMIS data in detail until the Commission makes a decision on which vintage of business line data should be used.

**Q. At page 5, Mr. Teitzel implies that Staff's desire to use the "most current information" would actually mean the use of 2005 ARMIS data rather than the 2004 ARMIS. Is he correct?**

A. No. As stated in its direct testimony, Staff supports the use of 2004 ARMIS which contains the most current data at the time the TRRO order was entered. This does not mean that Staff did not give thought to the use of 2005 ARMIS data. However, Staff decision to support the use of 2004 ARMIS data rather than 2005 data was influenced by the following points:

(1) 2005 ARMIS data was not available when this proceeding began,

(2) Neither Qwest nor the Joint CLECs have expressed support for the use of 2005 ARMIS data,

(3) Staff is not aware of any state Commission that has supported the use of 2005 ARMIS data,

(4) 2004 ARMIS data is much closer to the effective data of the TRRO than 2005 ARMIS data, and

(5) Qwest's fiber-based collocator data was more closely aligned with 2004 ARMIS data than 2005 ARMIS data.

**Q. Beginning at page 6, Mr. Teitzel initiates a lengthy discussion about decisions in other states. How does Staff respond?**

A. The summary point of Mr. Teitzel's testimony in this area is that more states appear to have supported the use of 2003 ARMIS data rather than 2004 ARMIS data, however, the information is not conclusive in Staff's opinion. Staff continues to believe that, given the lack of perfect clarity in the TRRO, the public interest dictates using the more current of the two – 2004. Had the FCC intended to require the use of 2003 ARMIS data, it could have explicitly stated this in its order.

**Q. At page 10, Mr. Teitzel highlights the position of the Washington Commission. How does Staff respond?**

A. Mr. Teitzel's reiteration of Washington's position was correct at the time he prepared his testimony. He could not have known, however, that on October 5, 2006, one day before he filed his testimony, the Washington Commission reversed its position[3] and now supports the use of 2004 ARMIS data.

**Q. At page 24, Mr. Teitzel argues that using ARMIS 43-08 data at the wire center level is an adjustment that contradicts Staff's support for the use of unadjusted ARMIS data. Does Staff agree?**

A. No. Mr. Teitzel's point is an attempt to confuse the Commission. He knows very well that to submit "statewide level" ARMIS 43-08 data, Qwest must first go through the process of aggregating data maintained at the wire center level. There is, in fact, no meaningful statewide level data that is not first derived from wire center level data. Examples of wire center data are numerous – one end office commonly equates to a wire center, telephone numbers are assigned to end offices which equate to wire centers,

[3] WUTC, October 5, 2006 Docket UT-053025, Order 04, Paragraph 18.

TELRIC rates are derived at the wire center level, LEC tariffs often differ across wire centers, and Qwest even based its recent request for Competitive Zones[4] on wire centers. But, examples of statewide level data, without some form of aggregation of wire center level data, are seldom found. Furthermore, in a major proceeding[5] that concluded in 2005, Mr. Teitzel made clear the importance of the wire center concept, from which the information used to populate ARMIS 43-08 must logically flow:

> "All of Qwest's network and billing systems are structured around the wire center and exchange concepts…"[6]

To argue that disaggregating statewide level data to the very elements on which the statewide is based constitutes an adjustment is simply misleading.

**6. STAFF'S REPONSE TO QWEST WITNESS MS. TORRENCE'S REBUTTAL TESTIMONY**

**Q. What portions of Staff's testimony does Ms. Torrence address in her rebuttal testimony?**

A. Ms. Torrence addresses Staff's recommendations with respect to the determination of fiber-based collocators used in the wire center non-impairment analysis.

**Q. Are Staff and Qwest in agreement on the process for determining fiber-based collocators?**

A. No. Part of Qwest's process is to send a letter to the CLECs asking the CLEC to verify the fiber-based collocation. However, Qwest's process only allows for a two week

[4] T-01051B-03-0454, In The Matter Of Qwest Corporation's Filing Of Renewed Price Regulation.
[5] T-01051B-03-0454, In The Matter Of Qwest Corporation's Filing Of Renewed Price Regulation.
[6] T-01051B-03-0454, Rebuttal Testimony of David L. Teitzel, Qwest Corporation, December 20, 2004, page 21.

response. Staff believes that two weeks is simply inadequate. Staff recommends that the CLECs have 60 days to respond rather than two weeks given the importance of the information to the non-impairment determination.

**Q. Does Ms. Torrence take exception to Staff's comments on Qwest's verification process for fiber-based collocator?**

A. Yes. However, I believe her comments are based on a misunderstanding of what I stated in my testimony. I did not state that Qwest "automatically" classified fiber-based collocators in the absence of an affirmative response. My testimony was that "Qwest counted all non-respondents as positive confirmation of the collocator status reflected in Qwest's databases." Regardless of any additional verification performed by Qwest, Staff continues to believe that the two week response time is inadequate. Qwest may have received more responses had the CLECs been provided with more response time. Staff believes that where no response is received it is appropriate for Qwest to take additional verification measures before categorizing the CLEC's fiber-based collocation status.

**Q. At page 10, Ms. Torrence states that Staff is in error regarding "the verification of power" for fiber-based collocators. How does Staff respond?**

A. Staff position was based on its understanding of the available information at the time. Staff accepts Ms. Torrence's explanations on pages 10 – 11 of her Rebuttal Testimony.

**Q. At page 14, Ms. Torrence discusses a challenge by the Joint CLECs regarding the inclusion of affiliated fiber-based collocators. What is Staff's position?**

A. In its Responsive Testimony at page 11, Staff stated that affiliated fiber-based collocators is not a "major issue at this time because Staff does not believe this would result in reclassification of the Phoenix East wire center. If year-end 2004 data is utilized, Qwest

should not include these connections in its new analysis." Staff now clarifies its position as follows.

Regardless of the data vintage, affiliated fiber-based collocators should not be counted separately if their legal affiliation exists at the date of a Commission Order designating a wire center as non-impaired. Understanding the affiliated status of companies is relatively easy and possible based on publicly available information. Given the importance of affiliated relationships, ignoring this information is not in the public interest. Understanding if companies are affiliated is far less difficult to establish than counting business lines once a year, as is the case with ARMIS 43-08 data. The agreement by all parties to not relitigate, or reverse, wire centers that have been designated as non-impaired adds considerable weight to the public interest of not ignoring publicly available information.

## 7. STAFF'S RESPONSE TO QWEST WITNESS MS. MILLION'S REBUTTAL TESTIMONY

**Q. What portions of Staff's testimony does Ms. Million address?**

A. Ms. Million addresses Staff's testimony regarding the non-recurring charge that Qwest proposes to charge for the work activities that Qwest must perform in the conversion of a UNE circuit to a private line circuit or its equivalent.

**Q. What is the nature of the disagreement among Staff, the Joint CLECs and Qwest on the conversion NRC proposed by Qwest?**

A. Both Staff and the Joint CLECs believe that since the conversion is for Qwest's benefit, the CLECs should not be charged. Qwest, however, argues, contrary to Mr. Denney's claims, that there is a change in the "form, character or function" when a conversion

occurs. Qwest witness Million argues that the character changes from a wholesale UNE product to a tariff service. Because of this, Ms. Million states Qwest must process them as an order-out and an order-in and change circuit IDs.

In Staff's opinion, Ms. Million misses the point. All the changes cited by Ms. Million are to the benefit of Qwest and not to the CLECs. Staff would prefer a straight-forward clarification of the following question – does the "physical construct or any associated services to end-users or the CLECs" change when converting a UNE circuit to a private line circuit?

If Qwest is able to answer by stating that "a jumper is changed, error detection is added, bandwidth is increased, increased billing detail is provided, repairs will be faster" or any other explanations that truly convey increased value to the CLECs or their customers, then Staff may be able to support Qwest's conversion charge on the basis of needs other than those attributable to Qwest.

**Q. Does Staff agree that Ms. Million's assessment of conversion costs?**

A. Staff does not state that Qwest will not incur conversion costs for the conversions steps it proposes, only that those steps appear to be driven by Qwest and have no material value to the CLECs or their customers. Staff fails to understand how Qwest's behavior is consistent with the competitive environment on which the non-impaired designation of the several wire centers is based. In a truly competitive environment, such as illustrated by non-impaired wire centers, Qwest should be focusing on the revenue opportunities as well as the costs. Staff understands the benefits of a non-impaired wire center designation to be financial gains by Qwest. If UNEs, today, are being provided at prices below those of private line circuits, Qwest immediately gains a margin benefit in all non-impaired wire

1 centers designated by the Commission. The wholesale organizations will lose customers
2 but the retail marketing organizations in Qwest will gain many private line circuit orders
3 at increased margins in each non-impaired wire center designated by the Commission.
4
5 **Q. At page 12, Ms. Million states that Staff's characterization of Qwest's conversion**
6 **process "oversimplifies" the process. How does Staff respond?**
7 A. At pages 13, Ms. Million supports her statement by expressing that "...the benefit of
8 properly converting UNEs to private line circuits via a circuit ID change is not merely a
9 billing convenience for Qwest, but also results in more accurate and efficient processing
10 of orders, maintenance and repairs of these circuits for the CLECs and their end-user
11 customers after the conversion have taken place." Unfortunately, Qwest has not
12 quantified these conversion benefits for the CLECs.
13
14 Qwest's overall testimony in this matter suggests it (1) has a captive market in the CLECs
15 who will need to convert UNEs to private lines or (2) seeks to discourage the CLECs from
16 becoming private line customers. If the former is true, then the non-impairment
17 designation of wire centers is only a legal result of the TRRO and Staff does not support
18 adding to its consequences. If the latter is true, Qwest should remember that it has ILEC
19 private line tariff obligations that must be satisfied and may wish to revisit its policy
20 decisions.
21
22 **Q. At page 3, Ms. Million addresses Qwest's success in converting circuits without**
23 **errors. How does Staff respond?**
24 A. At page 19 of its Responsive Testimony, Staff recommended that "Qwest provide the
25 estimated number of customer disruptions that may occur and how Qwest proposes to deal
26 with such customer disruptions in a manner that minimizes end-user customer impacts and

precludes customer losses by the conversions." While Qwest did not respond directly to Staff's request, the information provided at lines 15 – 17 of Ms. Million's testimony is, nonetheless, helpful. By stating that "Qwest is not aware of any complaints" from CLECs related to the conversion of 500 circuits, Staff understands Qwest to mean that it has a 100 percent success record. If Staff is not interpreting Qwest's meaning correctly, then Staff would still appreciate a direct response to its original request. At this point, Staff does not believe that Qwest has clearly communicated the operating risks or, perhaps more importantly, the remedies proposed by Qwest associated with the UNE circuit to private line circuit conversions from which the CLECs or customers gain no apparent value but potentially incur increased risks.

## 8. CONCLUSION

### 8.1 RECOMMENDATIONS

**Q. Does Staff have any changes to the recommendations included in its September 22, 2006 testimony?**

A. Having considered the Rebuttal Testimony of the Joint CLECs and Qwest filed on October 6, 2006, Staff continues to support the following recommendations included in its September 22, 2006 testimony. That:

1. The use of December 2004 ARMIS 43-08 data. Qwest should be required to provide its initial Non-Impaired Wire Center list and supporting information including Fiber-Based Collocator data and UNE data based upon year-end 2004 within 30 days of a Commission order.
2. ARMIS business line count data should be used as reported to the FCC, with no adjustments.
3. CLEC residential and non-switched lines should be included in the UNE-loop data.

4. EELs should be included in the UNE-loop data.
5. Qwest should be allowed to block UNE orders only for wire centers on an approved Commission Non-Impaired Wire Center List.
6. Qwest and the Joint CLECs utilize the Change Management Process to develop a permanent UNE blocking process to be implemented within 12 months of a Commission order in this proceeding.
7. Qwest should waive all conversion charges for converting UNE to private line circuits or its equivalent, similar to what Qwest did when it waived its conversion charges associated with UNE-P cutovers.
8. The process for future changes to Non-Impaired Wire Centers designations should be commenced by a Qwest petition to the Commission, with copies to the Joint CLECs and the Staff. Parties to the Commission proceeding should have 60 days to file comments on Qwest's petition and to request a hearing. The ALJ should issue a Recommended Opinion and Order for decision by the Commission.

Staff revises the following recommendations included in its September 22, 2006 testimony. That:

9. Qwest and the Joint CLECs submit an interim UNE blocking process to Staff for approval within 60 days of a Commission order in this proceeding. <u>However, Staff will support Qwest and the Joint CLECs if collectively they do not see the need for this process.</u>[7]

Staff adds the following recommendations to those in its September 22, 2006 testimony. That:

[7] Underlined areas indicates revisions.

10. Regardless of the data vintage, affiliated fiber-based collocators should not be counted separately if their legal affiliation exists at the date of Commission order designating a non-impaired wire center.

**Q. Does this conclude your Testimony?**

A. Yes, it does.