BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Docket No. 06M-080T

RE: IN THE MATTER OF THE JOINT COMPETITIVE LOCAL EXCHANGE CARRIERS' REQUEST REGARDING THE STATUS OF IMPAIRMENT IN QWEST CORPORATION'S WIRE CENTERS AND THE APPLICABILITY OF THE FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL REVIEW REMAND ORDER

ANSWER TESTIMONY AND EXHIBITS OF LYNN M V NOTARIANNI STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION

July 24, 2006

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I. IDENTIFICATION OF WITNESS AND PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Lynn M V Notarianni. My business address is 1580 Logan St., Office Level 1, Denver, Colorado, 80203.

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

A. I am employed by the Public Utilities Commission as a Rate/Financial Analyst.

Q. HAVE YOU PREPARED A STATEMENT OF YOUR EXPERIENCE AND QUALIFICATIONS?

A. Yes. It is attached as Appendix A to this testimony.

Q. ARE YOU GENERALLY FAMILIAR WITH THE FILINGS IN DOCKET NO. 06M-080T?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to outline the requirements set forth by the Federal Communications Commission ("FCC") in the Triennial Review

Remand Order ("TRRO")[1] for making a determination of wire center 'non-impairment' for dedicated interoffice transport and high capacity loops and to provide an analysis of the issues raised by Qwest in this matter as they relate to the FCC requirements.

I will also provide Staff's recommendation on the following:

- The data set and methods that should be used to determine wire center 'non-impairment';
- The administrative process for establishing and updating the list of 'non-impaired' wire centers; and
- The process and associated non-recurring costs for the transition of an unbundled network element ("UNE") circuit to a non-251 element such as a special access or private line circuit.

II. IMPACT OF MISSING DATA ON STAFF'S ANALYSIS

Q. WAS STAFF ABLE TO OBTAIN ALL DATA NECESSARY TO VERIFY QWEST'S LIST OF 'NON-IMPAIRED' WIRE CENTERS?

A. No.

Q. WHAT DATA WAS STAFF NOT ABLE TO OBTAIN?

[1] *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 (FCC 04-290) (2004).

A. Staff, like the other parties, was not, through the discovery process, able to obtain data regarding Qwest's 2004 and 2005 business line counts calculated in the same manner as the 2003 business line counts sponsored by Qwest in its direct testimony. While Staff has not itself sought this information, Staff is fully aware that the other intervenors have sought this information and that Staff was entitled to contemporaneously receive the data in the event that Qwest had supplied the data. Further, Staff has gone on record as a supporter of the pending motions to compel this data and the Joint CLEC's related motion to suspend the procedural schedule pending resolution of the vintage of data issue.

Staff also was not able to obtain data supporting Qwest's system used to track collocation inventory or data supporting the competitive local exchange carrier ("CLEC") circuit ID conversions that have occurred.

Q. WHY IS THIS DATA IMPORTANT?

A. As described in more detail later in my testimony, a wire center is considered 'non-impaired' based on thresholds of existing counts of business lines, collocators, or both. Key to this determination is the point in time in which the count of business lines or collocators is taken, because the count can vary substantially based on business conditions. The appropriate milestone date in the FCC's proceeding on this matter drives the determination of the point in time in which counts of business

lines and collocators should be made and is being debated in State proceedings across the United States. Staff supports the position that the currency of data is critical to approval of individual wire centers being considered 'non-impaired'. Without the current data on business line counts Staff is unable to reach any conclusion on approval of the list of 'non-impaired' wire centers.

Similarly, Staff has requested data regarding the system currently used for collocation inventory tracking which system was purported by Qwest to provide a significant improvement in the ability to accurately track collocation instances and detail. Without information regarding this system, Staff is unable to ascertain whether the current list of fiber-based collocators is complete and accurate or if the system is sufficient to identify fiber-based collocators as updates to the 'non-impaired' wire centers list are made.

Lastly, data regarding the circuit ID changes that Qwest has made when moving a circuit from a UNE to a private line or special access service would aid Staff in understanding if this process is necessary when converting circuits in a 'non-impaired' wire center.

III. FCC REQUIREMENTS

Q. PLEASE PROVIDE A BRIEF HISTORICAL CONTEXT OF THE FCC'S RULING THAT FORM THE BASIS FOR THIS PROCEEDING.

A. As part of it's Order on Remand in the Matter of Unbundled Access to Network Elements (WC Docket No. 04-313) and Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket No. 01-338), released on February 4, 2005, the FCC clarified the Incumbent Local Exchange Carriers ("ILECs") obligations to provide unbundled access to dedicated interoffice transport and high capacity loops as well as clarified the definition of its "impairment" standard as it applies to continued unbundled access at the wire center level. These clarifications were necessary based on a ruling from the D.C. Circuit Court of Appeals in *United States Telecom Ass'n v. FCC ("USTA II")*[2] that vacated the FCC's findings of nationwide impairment for dedicated transport and generally for high-capacity loops as defined in the Triennial Review Order ("TRO") released August 21, 2003.[3] While the TRO eliminated most of the unbundling requirements for broadband architectures serving the mass market environment and limited access to Optical Character Nnumber ("OCN") or 'next generation' loops, the TRRO rules were intended to further encourage facilities based investment

[2] 359 F.3d 554 (D.C. Cir 2004)

[3] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16978 (FCC 03-36) (2003).

by ILEC competitors by only requiring access to unbundled elements where the competitor is "genuinely" impaired.[4]

Q. PLEASE DEFINE DEDICATED TRANSPORT IN GENERAL.

A. Dedicated transport includes Digital Signal level 1 (DS1), DS3, and OCN capacity facilities between wire centers or switches owned by the ILEC or CLEC that are used for the exchange of traffic or, in the case of dark fiber transport, dedicated to a particular customer or carrier.

Q. PLEASE SUMMARIZE THE RULES THAT THE FCC ARTICULATED IN THE TRRO THAT ESTABLISH THE BASIS FOR DETERMINATION OF WIRE CENTER 'NON-IMPAIRMENT' FOR DEDICATED TRANSPORT?

A. The FCC defined a 3 tier structure for wire center 'non-impairment' classification for UNE transport in the TRRO. The FCC defined the structure as follows:[5]

- **Tier 1** wire centers are those incumbent LEC wire centers that contain at least four fiber-based collocators, at least 38,000 business lines or both.
- **Tier 2** wire centers are those incumbent LEC wire centers that are not Tier 1 wire centers, but contain at least 3 fiber-based collocators, at least 24,000 business lines, or both.
- **Tier 3** wire centers are those incumbent LEC wire centers that do not meet the criteria for Tier 1 or Tier 2 wire centers.

[4] TRRO, at ¶2.

[5] TRRO, §51.5(e)(3)

Applying the tier structure to the various levels of UNE transport, the FCC more specifically ruled as follows:[6]

> **DS-1 Transport -** Competing carriers are impaired without access to DS1 transport except on routes connecting a pair of wire centers, where both wire centers contain at least four fiber-based collocators or at least 38,000 business access lines.
>
> **DS-3 and Dark Fiber Transport** – Competing carriers are impaired without access to DS3 or dark fiber transport except on routes connecting a pair of wire centers, each of which contains at least three fiber-based collocators or at least 24,000 business lines.
>
> **Transition of DS-1, DS-3 and Dark Fiber Transport** – We adopt a 12-month plan for competing carriers to transition away from use of DS-1 and DS-3 capacity dedicated transport where they are not impaired, and an 18 month plan to govern transitions away from dark fiber transport.
>
> **Transition Pricing of Transport** – During the transition periods, the competitive carriers will retain access to unbundled dedicated transport at a rate equal to the higher of (1) 115 percent of the rate the requesting carrier paid for the transport element on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004 and the effective date of this [TRRO].

Q. PLEASE DEFINE A HIGH CAPACITY LOOP IN GENERAL.

A. A high-capacity loop for purposes of this proceeding is a facility between a wire center or switch and an end-use customer location that supports one

[6] TRRO, at ¶5.

or more 64kbps (kilobits per second) channels depending on the capacity of the loop. A DS0 Loop provides 1 64kbps channel, a DS1 Loop provides 24 equivalent 64kbps channels, and a DS3 Loop provides 672 equivalent 64kbps channels. A dark fiber loop is a loop within a fiber cable that is not yet lit and therefore not yet carrying communications services.

Q. PLEASE SUMMARIZE THE RULES THAT THE FCC ARTICULATED IN THE TRRO THAT ESTABLISH THE BASIS FOR DETERMINATION OF WIRE CENTER 'NON-IMPAIRMENT' FOR HIGH CAPACITY LOOPS.

A. For access to high capacity loops on a UNE basis the FCC ruled as follows:[7]

> **DS-1 Capacity Loops** – Competitive LECs are impaired without access to DS1-capacity loops except in any building within the service area of a wire center containing 60,000 or more business lines and 4 or more fiber-based collocators.
>
> **DS-3 Capacity Loops** – Competitive LECs are impaired without access to DS3-capacity loops except in any building within the service area of a wire center containing 38,000 or more business lines and 4 or more fiber-based collocators.
>
> **Dark Fiber Loops** – Competitive LECs are not impaired without access to dark fiber loops in any instance.

[7] TRRO, at ¶5.

> **Transition of DS-1, DS-3 and Dark Fiber High Cap Loops** – We adopt a 12-month plan for competing carriers to transition away from use of DS1- and DS3-capacity loops where they are not impaired, and an 18-month plan to govern transitions away from dark fiber loops. These transition plans only apply to the embedded customer base, and do not permit competitive LECs to add new high-capacity loop UNEs in the absence of impairment.
>
> **Transition Pricing of Transport** – During the transition periods, the competitive carriers will retain access to unbundled facilities at a rate equal to the higher of (1) 115 percent of the rate the requesting carrier paid for the unbundled loops on June 15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004 and the effective date of this [TRRO].

Q. WHY ARE QWEST AND THE JOINT-CLECS ASKING THIS COMMISSION TO APPROVE A LIST OF 'NON-IMPAIRED' WIRE CENTERS?

A. The FCC in the TRRO intended the impairment rules to be largely self-effectuating based on readily available data. The FCC established general guidelines that it felt would allow the CLECs to do a 'reasonably diligent' inquiry and self-certify that it is appropriate to request UNE transport or high capacity loops in a particular wire center. Accordingly the FCC gave the ILEC the opportunity to dispute the CLEC request for the UNE on a prospective basis before a state commission or other appropriate authority.[8] The practical reality of the implementation of such a process

[8] TRRO at ¶234.

would have the general effect of potentially spawning numerous complaints on an individual carrier basis leading to extensive time and costs to the carriers, state commissions or other authorities, as well as create potential unintended customer service impacts. To avoid lengthy proceedings and costly impacts, Staff concurs, in general, with Qwest and the Joint CLECs that it is more appropriate to establish a common list of approved 'non-impaired' wire centers with defined underlying data and methods for both the initial list of 'non-impaired' wire centers as well as future additions to the list. However, the specific definition of the data, the method for applying the data, and the processes surrounding the implementation are the subject of debate and are discussed in more detail later in my testimony.

IV. IDENTIFICATION OF ISSUES

Q. WHAT ARE THE SPECIFIC ISSUES IN THIS PROCEEDING?

A. The specific issues in this proceeding necessary to approve the list of designated 'non-impaired' wire centers include, what data should be used and the vintage of the data to be used to determine a 'non-impaired' wire center, the methods for counting business lines and fiber based collocators, the administrative process for updating the list of 'non-impaired' wire centers, the Qwest proposed process for transitioning the embedded base of UNE circuits in approved 'non-impaired' wire centers, and the Qwest

proposed non-recurring charge for transitioning the embedded base of UNE circuits to alternative services. Staff is particularly concerned with these issues and outlines its position on each issue below.

V. DATA AND METHODS TO BE USED TO DETERMINE 'NON-IMPAIRMENT'

Q. WHICH WIRE CENTERS IS QWEST ASKING BE APPROVED AS 'NON-IMPAIRED' AND WHAT IS THE BASIS QWEST RELIES ON TO SUPPORT THE REQUESTED DESIGNATION?

A. The following table depicts the wire centers Qwest contends are 'non-impaired', whether Qwest is relying on fiber-based collocator counts or business line counts or both, and the FCC Transport Tier designation. The table also identifies whether the UNE High Capacity Loop UNE is no longer available.

Wire Center	Fiber Based Collocators	Business Lines	UNE Transport Tier	UNE Loop Not Available
Boulder (BLDRCOMA)		X	1	
Colorado Springs Main (CLSPOMA)	X		1	
Pikeview (CLSPCOPV)	X		1	
Capitol Hill (DNVRCOCH)	X		1	
Curtis Park (DNVRCOCP)	X		1	
Dry Creek (DNVRCODC	X	X	1	DS3
Denver East (DNVRCOEA)	X		1	
Denver Main (DNVRCOMA)	X	X	1	DS3
Denver Southeast (DNVRCOSE)	X		1	
Sullivan (DNVRCOSL)	X		1	
Northglenn (NGLNCOMA)		X	1	
Arvada (ARVDCOMA)		X	2	
Aurora (AURRCOMA)	X		2	
Denver South (DNVRCOSO)	X		2	
Aberdeen (ENWDCOAB)	X	X	2	
Lakewood (LKWDCOMA)	X		2	

Q. WHAT DATA AND METHODS DID QWEST USE TO DETERMINE THAT THESE WIRE CENTERS ARE 'NON-IMPAIRED'?

A. Qwest made its initial determination of 'non-impaired' wire centers based on one or both of the following data sets. The first set of data produced a count of business lines based on the 2003 ARMIS 43-08 Qwest business

line counts adjusted upward to apply the voice-grade equivalency number of lines and to include all CLEC UNE-loops[9] and UNE-P circuits. The second set of data produced a count of fiber-based collocators based on Qwest record inventory, certain CLEC validation, and physical verification of collocations existing as of March, 2005 and still in existence as of July, 2005.

Q. DOES STAFF AGREE WITH QWEST'S DATA AND METHODS?

A. Staff agrees in part with Qwest's data and methods. A high level summary of areas of agreement and disagreement is provided here and detailed more fully in subsequent answers.

Regarding the business line counts provided by Qwest, Staff believes that the use of 2003 data is inappropriate and does not reflect an accurate view of the number of business lines as of the March 11, 2005 effective date of the TRRO or as of Qwest's request to this Commission to approve a list of 'non-impaired' wire centers. Staff does not agree that the ARMIS 43-08 business line counts should be adjusted to include total potential channelized capacity rather than capacity in use (e.g., counting a DS1 as 24 individual lines whether or not the 24-lines are actually in use). Staff concurs that the plain definition of the FCC language supports the inclusion of all UNE-loops, including residential and non-switched access

[9] The inclusion of all CLEC UNE-Loops includes loops used for both residential and business service, switched and non-switched loops, and working and non-working capacity.

lines; however, to the extent that UNE-loop non-switched access line count data is readily available, the lines should not be included. Staff, with reservation, concurs that the UNE-P line count approximation is appropriate.

Regarding the number of fiber-based collocators identified by Qwest, Staff believes that it was appropriate for Qwest to update its wire center collocation counts based on current data and physical verification of the collocation. While Staff applauds Qwest's efforts to obtain verification from the CLECs and to physically verify the collocation details and believes these steps are necessary, Qwest's efforts fell short of being complete and highlight an inaccurate set of inventory records that appear to lack any rigorous built-in quality checks to assure the accuracy of the data.

a. Business Line Counts

Q. HOW DOES THE FCC DEFINE A BUSINESS LINE INCLUDING THE PARAMETERS REGARDING WHAT COULD BE INCLUDED IN THE COUNT OF THE LINES?

A. In 47 C.F.R. § 51.5, Terms and Definitions, the FCC defines a business line as follows:

> A business line is an 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 UNE loops connected to that wire center, including UNE loops provisioned in combination with other 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 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64kbps-equivalents, and therefore 24 'business lines'.

Q. HOW HAS QWEST INTREPRETED AND APPLIED THIS DEFINITION TO ARRIVE AT ITS ADJUSTED BUSINESS LINE COUNTS?

A. Qwest includes in its calculations Qwest retail business lines, all UNE loops, and an estimation of business UNE-Platform ("UNE-P") lines. More specifically, when counting Qwest retail business lines, Qwest started with Table 3 of its 2003 ARMIS 43-08 retail business line counts, which counts include single and multi-line business switched access lines and payphone lines. Qwest then multiplied all DS1 circuits by a voice grade equivalent factor of 24. Qwest adds to this total the count of all UNE-loops in a wire center including EELs and those stand alone UNE loops used to serve a business or residential customer. Qwest contends that it did not count High-Speed Digital Services Lines ("HDSL"). Lastly, Qwest arrives at the total number of business lines by adding in UNE-P lines whose total count has been adjusted based on the number of white

page listings attributed to residential lines and then subtracted from the total count of UNE-P lines.

Q. DOES STAFF AGREE WITH QWEST'S METHOD AND CALCULATION OF BUSINESS LINES?

A. Not in its entirety. Staff believes that Qwest overstates its business line counts through the use of outdated line count data, through the inclusion of potential versus actual working capacity on its business lines, and through the inclusion of CLEC UNE-loop non-switched access line counts.

Q. IN WHAT WAYS DOES STAFF DISAGREE WITH QWEST'S BUSINESS LINE COUNTS?

A. Staff disagrees with the vintage of data used by Qwest to calculate business line counts. Staff believes that the Qwest ARMIS 43-08 high-capacity line counts should not be multiplied by a 64kbps voice-grade equivalent factor and that certain UNE-loop non-switched access line counts should not be used to calculate the total business line count.

Q. WHY DOES STAFF BELIEVE THAT THE USE OF 2003 BUSINESS LINE COUNTS IS INAPPROPRIATE?

A. The effective date of the TRRO is March 11, 2005. As of that date, the 2003 ARMIS 43-08 data used as a basis for calculation of business lines

was already 14 months old. As ARMIS data is filed in April of each year and is based on the previous end of year counts, some inherent delay is inevitable. However, as a practical matter, by the time parties were able to interpret and act on the TRRO, 2004 ARMIS 43-08 data was available (1 month after the TRRO). In fact, taking into account the evolution of the wire center 'non-impairment' proceeding before us, 2005 ARMIS 43-08 data is available and could readily be used to make the appropriate 'non-impairment' designations. It is curious that Qwest finds it appropriate to update its collocation counts current to the 2005 timeframe but steadfastly refuses to provide the parties to this proceeding updated business line count data as requested in Joint CLEC discovery request 01-0047 (response received June 26, 2006) and OCC discovery request 01-008 (response received July 20, 2006).[10] The logical conclusion can only be that the updated data would likely impact the tier designations for access to UNE transport and the business line count thresholds necessary to meet the UNE-loop 'non-impairment' standard.

Q. HAVE ANY OTHER COMMISSIONS REQUIRED THE ILECS TO USE DATA MORE CURRENT THAN 2003?

A. Yes. In both North Carolina and Michigan the commissions required the use of 2004 ARMIS 43-08 data. In North Carolina, the order noted that

[10] See Exhibits 1 and 2. Motions to compel regarding both of these discovery requests have been filed in this matter. No rulings have been issued.

BellSouth had updated its business line count results to include 2004 ARMIS data and UNE-P data and therefore the most current data has been used to establish the list of wire centers.[11] Similarly, in Michigan, the Public Service Commission ruled that, "The age of the data must be close enough in time to reflect conditions at the time that SBC claims that the wire center is no longer impaired."[12] Therefore, it follows logically that the "most current data" standard has been ordered and implemented and that the Colorado PUC should similarly require the use of current data.

Q. DOES STAFF BELIEVE THAT QWEST SHOULD MULTIPLY ITS BUSINESS LINES BY 64kbps VOICE GRADE EQUIVALENTS FOR CHANNELIZED HIGH CAPACITY LOOPS?

A. In general Staff does not have a problem with counting the voice grade equivalent of the high capacity loop for Qwest business lines as specified by the FCC in its definition of a business line; however, the voice-grade equivalent multiplier should only apply to the extent that it actually and accurately reflects the true count of working voice grade equivalent lines and not the unused capacity of the high capacity loop.

[11] *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, P. 38.

[12] *In the Matter, on the Commission's Own Motion, to Commence a Collaborative Proceeding to Monitor and Facilitate Implementation of Accessible letters issued by SBC MICHIGAN and VERIZON*, Case No. U-14447, Order, September 20, 2005, P.5.

Q. WHY DOES STAFF BELIEVE THE VOICE GRADE EUQIVALENT MULTIPLIER SHOULD APPLY ONLY TO WORKING LINES?

A. It is Staff's understanding that ARMIS 08-43 data reflects the voice grade equivalent working line count. To rely on a voice grade equivalent line count that applies to unused capacity, as Qwest does via its adjustment, contradicts the FCCs desire to rely on readily available data. Therefore line counts supported by only working voice grade equivalent lines should be required.

Q. HAVE ANY OTHER ILECS USED UNADJUSTED ARMIS DATA OR HAS ANY STATE COMMISSION REQUIRED THE USE OF UNADJUSTED DATA?

A. Yes. In fact both AT&T (SBC) and Verizon have both only submitted unadjusted ARMIS 08-43 as the basis for their business line counts.[13] Additionally, the North Carolina Utilities Commission required the use of unadjusted data.[14] Most recently a Washington Utilities and

[13] SBC – *Post-Interconnection Dispute Resolution Proceeding Regarding Wire Center UNE Declassification*, Texas PUC Docket No. 31303. (http://interchange.puc.state.tx.us/WEBApp/Interchange/Documents/31303_65_496422.PDF), Direct testimony of SBC witness Thomas Sowash, November 15, 2005, page 6, lines 1-6. *See* Verizon response to Washington UTC Staff Information Request Set 1 No. 3, February 28, 2006 in Docket No. UT-053025. Verizon confirms in part (viii) of the response that, "The methodology used to determine the line counts in (vii) is the same as the methodology used to determine switched business line counts for ARMIS 43-08."

[14] NC Docket NO. P-55 Sub 1549, Pg. 41-42.

Transportation Commission Administrative Law Judge issued a recommendation to and stated the following: [15]

> 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, 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.

Q. DOES STAFF SUPPORT THE INCLUSION OF CLEC UNE-LOOP NON-SWITCHED ACCESS LINE COUNTS IN CALCULATING THE NUMBER OF BUSINESS LINES?

A. Staff believes that the FCC intended the count of business lines to be based on readily available and, therefore, verifiable data. To the extent that data is available, such as is the case when a CLEC provides strictly non-switched data services, then the line counts should not be included. Qwest has indicated that they have excluded HDSL counts. However, Qwest does not indicate that they remove any other DSL line counts such as DSL served over a DS0 loop. In order to justify the inclusion of the DSL loops Qwest should be required to demonstrate that the loop is used for other than data purposes.

[15] Docket NO. UT 053025, Order NO. 03. Para. 34.

Q. DOES STAFF SUPPORT THE INCLUSION OF CLEC UNE-LOOP RESIDENTIAL LINES IN CALCULATING THE NUMBER OF BUSINESS LINES?

A. Yes. Staff concurs with Qwest that data is not readily available to make a determination of which customer class a loop is used to serve and that the FCC clearly states in paragraph 105 of the TRRO, "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." While this clearly causes an overstatement of the number of business lines, the practical impact is minimal as recent trends have seen CLECs largely pulling out of the residential market regardless of any designation of wire-center 'non-impairment'.

Q. DOES STAFF SUPPORT THE INCLUSION OF CLEC UNE-P RESIDENTIAL LINES IN CALCULATING THE NUMBER OF TOTAL UNE-P BUSINESS LINES?

A. Yes, with reservation. Qwest counts the total number of UNE-P business lines using a formula that subtracts the number of residential line counts from the total UNE-P line count based on the number of residential white page listings as representative of the number of UNE-P lines used for residential service. Qwest has indicated that they have never kept an inventory of which UNE-P circuits serve residential customers, and while

this is not consistent with precedent across other ILECs, the likely margin of error of using the directory listings approach may bes tolerable.

b. Fiber-Based Collocators

Q. HOW DOES THE FCC DEFINE FIBER-BASED COLLOCATION INCLUDING THE PARAMETERS REGARDING WHAT COULD BE INCLUDED IN THE COUNT OF THE LINES?

A. The FCC defines a fiber-based collocator as follows:

> A fiber-based collocator is any carrier, unaffiliated with the incumbent LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical poser 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. Dark fiber obtained from an incumbent LEC on an indefeasible right of use basis shall be treated a non-incumbent LEC fiber-optic cable. Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. For purposes of this paragraph, the term affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation in this Title.[16]

Q. HOW DID QWEST DETERMINE ITS FIBER- BASED COLLOCATION COUNTS?

A. As outlined in the Direct Testimony of Qwest witness Rachel Torrence

[16] 47CFR §51.5, Terms and Definitions, Fiber-based collocator.

filed on May 22, 2006, Qwest undertook two efforts to identify and validate its list of fiber-based collocators. The initial list of collocators was created based on data records as of December, 2003 and consisted of information from inventory records and billing records. From this list, Qwest eliminated any collocations where there was no record of a fiber-based entrance facility. Qwest then sent the list to the Colorado Project Management Center to verify the existence of power based on billing records and then on to the Wholesale Services Markets team to validate the information against February, 2005 billing data to see if the CLEC was still being billed for the collocation. The resulting list was then validated by the central office technicians and state interconnection managers based on their knowledge of the existence of the collocation. Lastly, the list was analyzed to remove any collocations where there were multiple collocations of a single provider in a wire center and/or multiple collocations in a wire center of affiliated carriers.

Qwest undertook a second round of collocation verification beginning in March, 2005 and concluding in approximately June, 2005. This effort was purported to be done due to the short amount of time available to perform the first verification. The second effort was a more extensive process that involved requesting validation of collocation information from the CLEC whose collocation it was, the creation of a structured template including more detailed data that could be used to

compile the information, a physical verification by Qwest of the existing collocation as of the June, 2005 timeframe.

Qwest made significant modifications to the data between the first and second verifications as can be seen in Table 1 of the Direct Testimony of Rachel Torrence on page 18 as well as in Highly Confidential Exhibit RT-5. Qwest indicates the modifications were necessary due primarily to their conservative approach in the first verification to not include any collocation for which there was any doubt about the data, and because of data issues due to the timing of a migration from one collocation database tracking system to the next.

Q. DO YOU AGREE WITH QWEST'S PROCESS AND COUNT OF FIBER- BASED COLLOCATORS?

A. In general, Staff believes that Qwest is correctly interpreting the requirements of the FCC and attempting to apply them to produce a correct set of fiber-based collocators. The Staff also appreciates that Qwest made the effort to update the data to reflect the level of fiber-based collocators as of June, 2005. Staff's primary concern is with the accuracy of the inventory records within Qwest's databases and Qwest's ability to physically assess adequately the existence of certain working collocation equipment particularly where it is a 'caged' collocation environment. Qwest Exhibit RT-5 provides numerous examples where the data, for varying reasons, was inaccurate. In fact, Qwest admits that 12 wire

centers were impacted as a result of the CLEC reviews and field verifications.[17] Staff tried through discovery to obtain the necessary data from Qwest to determine if the new system used for the inventory of collocation data is accurate and sufficient to provide reasonable assurance that the current or future data will be accurate.[18] Qwest declined to provide this data citing vendor confidentiality issues. Staff's has attorney commenced discussion with Qwest in an attempt to resolve this matter. Staff believes that Qwest must provide evidence of the accuracy of the data that was transferred from the previous inventory system to the new system and articulate what quality assurance measures are in place to assure the accuracy of the data on a going forward basis.

Q. BASED ON YOUR REVIEW OF THE INACCURACIES IN THE DATA OR PROCESSES, WOULD THE QWEST CLASSIFICATION OF THE 'NON-IMPAIRED' WIRECENTERS DIFFER?

A. Staff is unable to make such a determination but believes that Qwest should be required to obtain verification from the fiber-based collocator as proof of existence and use of the collocation.

[17] Direct Testimony of Rachel Torrence, May 22, 2006. Pg. 17, lines 18-19.

[18] See Exhibit 3 (Qwest response to Staff discovery request PUC 01-025, received on July 17, 2006).

Q. DO YOU HAVE ANY OTHER CONCERNS REGARDING THE ACCURACY OF COLLOCATION DATA AND PROCESS?

A. Staff has no other concerns at this time with the accuracy of the data but would like to address the specific situation of inclusion of the counts of qualifying fixed wireless and dark fiber users operating with an Indefeasible Right of Use ("IRU"). Qwest indicates that it did not include any such counts in determining its current list of fiber-based collocators due to the short time frame to produce the data, the small percentage of such situations, and the extensive research required to produce the supporting data. When asked by Staff in a data request PUC 01-021 if Qwest intended to count these collocators in the future, Qwest responded that they may.[19] Staff believes that it is acceptable for Qwest to count such collocators; however, Qwest has presented no data and supporting processes to assure that the inclusion would be appropriate. In fact, since Qwest has acknowledged the extensive amount of research required, Staff believes that, if Qwest intends to include such counts in the future, the Commission should approve the data sources and processes prior to any such inclusion.

[19] See Exhibit 4 (Qwest response to Staff discover request PUC 01-021)

VI. ADMINISTRATIVE PROCESS FOR ESTABLISHING AND UPDATING THE 'NON-IMPAIRED' WIRE CENTER LIST

Q. DOES THE FCC CONTEMPLATE UPDATES TO THE 'NON-IMPAIRED' WIRE CENTER LIST?

A. Yes, in so far as the updates are to add too but not subtract from the list of 'non-impaired' wire centers. Specifically, for dedicated transport, the FCC notes in the TRRO that, "We recognize that some dedicated transport facilities not currently subject to the non-impairment thresholds established in this Order may meet those thresholds in the future. We expect incumbent LECs and requesting carriers to negotiate appropriate transition mechanisms for such facilities through the section 252 process."[20] Similarly, for unbundled loops, the FCC in the TRRO notes, "We recognize that some high-capacity loops with respect to which we have found impairment may in the future meet our thresholds for non-impairment. For example, as competition grows, competitive LECs may construct new fiber-based collocations in a wire center that currently has more than 38,000 business lines but 3 or fewer collocations. In such cases, we expect incumbent LECs and requesting carriers to negotiate appropriate transition mechanisms through the section 252 process."[21]

[20] TRRO, FN 399.

[21] TRRO, FN 519.

The FCC believes that this supports their unbundling rules which are designed to remove unbundling obligations over time as facilities based competition increases.

Q. HOW DOES QWEST PROPOSE THAT ADDITIONS BE MADE TO THE 'NON-IMPAIRED' WIRE CENTER LIST?

A. Qwest is seeking an expedited process similar to a tariff filing utilizing the Change Management Process ("CMP") for CLEC notification and whereby the designation of new 'non-impaired' wire centers would become effective by operation of law and binding on all CLECs unless the filing is disputed within 30 days and set for hearing. In such a circumstance Qwest would not change the rates to the new service rate until the wire center status is approved and effective at which time Qwest would back bill the CLEC to the effective date of the order.

Q. WHAT ARE STAFF'S COMMENTS ON QWEST'S PROPOSED PROCESS?

A. In general, Staff concurs that the process should be as efficient as possible but also as prudent as possible without causing unnecessary delay. CLECs may have considerable amounts of money invested and planned market strategies that may be inappropriately disrupted and have irreversible negative impacts if appropriate diligence is not taken prior to declaring a wire center as 'non-impaired'. At the same time, the CLECs should not be

allowed to unreasonably delay the updating of the list of wire centers by immediately challenging every filing Qwest makes.

In order to mitigate this dilemma, Staff would support an application filing process that at minimum would include the following steps:

(1) Qwest would file an application that updates the list of 'non-impaired' wire centers based only on data sources and methods as ordered in this docket.

(2) Qwest could file an application to update the list of 'non-impaired' wire centers based on the number of fiber-based collocators whenever the threshold has been met. If the Qwest filing is based on business line counts, then the filing should be made only on an annual basis after the ARMIS 43-08 data for the year in which Qwest meets the threshold becomes available.

(3) Evidence to support the changes would be provided to the Commission and the CLECs concurrent with the filing.

(4) Based on the completeness and demonstrated accuracy of the data, the Commission Staff may audit the data and all supporting documentation including any physical verifications necessary to support the filing.

(5) A Commission order shall be required before an update to the list of 'non-impaired' wire centers takes effect. This will have the practical effect of assuring that sufficient and accurate data has been presented and assessed to allow the Commission to make a finding of non-impairment.

Similarly, if such efforts are undertaken, it should no longer be necessary for CLECs to self-certify that they have undertaken a 'reasonably diligent inquiry' prior to submitting a request for a UNE and, in turn, Qwest would not need to process the CLEC request and dispute it after the fact.

(6) The CLECs should be allowed a transition period to convert exiting circuits as currently defined in the TRRO for all future transitions based on the effective date of the update to the list. Similarly, the transition pricing identified in the TRRO should apply.

(7) The CLECs would be able to continue to order UNEs up to the date that the order updating the list with a specific wire center is effective, with allowance for backbilling to the date of Qwest's application if the Commission approves the update to the list.

(8) The CLECs and Qwest would jointly work together through the CMP process to put in place procedures that assure that once the initial 'non-impaired' wire center list and subsequent updates to the list are made, that electronic interfaces between the ILEC and CLEC are sufficiently tested so as to minimize any possible disruption to the customer's service.

VII. NON-RECURRING CHARGES FOR UNE TRANSITION

Q. WHAT OPTIONS DOES QWEST CLAIM CLECS HAVE TO TRANSITION UNES IN 'NON-IMPAIRED' WIRE CENTERS TO ALTERNATIVE SERVICES?

A. Qwest contends that CLECs have four options available to them for the conversion of UNE circuits in 'non-impaired' wire centers. The UNE can be disconnected, the CLEC can order facilities from another carrier, the CLEC can construct its own facilities, or the CLEC can convert the circuit to a Qwest private line or special access service. Qwest believes that for alternate Qwest services, the private line service is most economic choice for the conversion of the UNE.

Q. WHICH OF THE OPTIONS OUTLINED IN THE PREVIOUS RESPONSE ARE CLECS MOST LIKELY TO UTILIZE?

A. Particularly in the immediate timeframe, CLECs may have no viable option other than to convert the UNE to a Qwest provided service. In fact, when Qwest was issued Joint CLEC discovery request 01-002 which request specifically asked that Qwest identify all facilities available to them in the Qwest designated 'non-impaired' wire centers, Qwest did not provide a response that identified available alternative facilities. Instead, Qwest merely referred to Joint CLEC discovery request 01-001 which was a legalistic response referencing FCC decision language.[22]

Q. WHAT PROCESS DOES QWEST USE FOR THE TRANSITION OF UNE CIRCUITS IN 'NON-IMPAIRED' WIRE CENTERS?

[22] See Exhibit 5.

A. Qwest has implemented a process for the conversion of the UNE to private line service that involves changing the circuit identification within Qwest's systems. This change is the primary driver of a series of non-automated processing steps by various Qwest personnel used to complete the record conversion of the circuit while assuring that the customer's circuit is not physically disconnected during the process.[23] While Qwest admits that there is no necessary physical change in the circuit, they nonetheless contend that the circuit change is necessary in order for Qwest to properly identify the circuits for handling issues such as repair tickets.

Qwest provided, in discovery, a supporting cost study that identifies the tasks performed, the amount of time required to perform the tasks, assumptions regarding the allocation of time, and identifies miscellaneous overhead costs associated with the process. The resulting non-recurring charge ("NRC") to the CLEC for the conversion of the circuit is $50.00 and is also referred to as a design change charge.

Q. WHY DOES QWEST BELIEVE IT IS APPROPRIATE TO ASSESS THE $50 NRC FOR CONVERSION OF THE UNE?

A. Qwest identifies two reasons as justification for the $50 NRC. First, Qwest believes that, because it incurs costs for the conversion of the UNE, the cost should be born by the cost causer and not passed along as a cost

[23] See Direct Testimony of Teresa K. Million filed May 22, 2006, pg. 4-6 for a detailed description of the conversion process.

burden to Qwest's end-user customer. Second, Qwest believes that if it is not allowed to assess the NRC to the CLEC, then it would 'distort' the CLECs economic evaluation of alternatives and deter the CLEC from building its own facilities.

Q. DOES STAFF SUPPORT THE ASSESSMENT OF A $50 NRC FOR THE CONVERSION OF A UNE TO A PRIVATE LINE CIRCUIT?

A. No, Staff does not support the charge for multiple reasons. First, the CLEC is not directly the cost causer. The FCC mandated that in 'non-impaired' wire centers, a CLEC may not retain the UNE circuit. Second, it is not clear, as described above, that the CLEC currently has alternative facilities that can be obtained from other providers to which the customer can be converted. This second basis is further supported because the cost of building facilities, particularly in the 90-day window Qwest proposes to require for transitioning existing circuits, likely makes the option not viable. Third, the cost will not be passed along to the Qwest end-user. Qwest will more than recover its costs in the margin of the recurring charge for the ongoing private line service which is considerably higher than the current UNE circuit rate. For example, the DS1 UNE transport rate at eight miles is approximately $63, while the same circuit at interstate rates is approximately $100. The margin is almost sixty percent. Additionally, Qwest today only charges its own customers a $20 NRC for changing the circuit ID for a private line service. Lastly, Qwest makes no

sincere attempt to apply the concept of total services long run incremental cost ("TSLRIC") when determining the NRC. This approach is required by the Colorado PUC when setting rates that are 'just and reasonable' and requires that costs be based on forward looking efficient processes and systems not embedded costs. However, Qwest's NRC is based on a current process in which various people spend a significant amount of time interrupting automated tasks or double checking manual tasks to assure themselves that either a person or the system has performed the step appropriately and accurately so that the customer's service is not interrupted because the embedded process and systems are not efficient.

Q. WHAT STEPS IN THE CONVERSION PROCESS ARE DUPLICATIVE AND MANUAL?

A. Qwest involves multiple personnel in the process of transitioning a UNE. The following five steps highlight the inefficiencies involved that are then costed out in order to determine the NRC.

First, a Service Delivery Coordinator ("SDC") reviews and confirms the Access Service Request ("ASR") submitted by the CLEC. The ASR submittal process is electronic with identified required fields of data that must be submitted. An efficient system would provide sufficient up front edits to assure the data submitted is correct with minimal fallout.

Second, the SDC changes the circuit ID so that the service will be recognized as a private line upon completion of the order. Again, this step

is manual, not by necessity, but by virtue of the fact that Qwest has implemented UNEs using the local service request process ("LSR") and bills the service through a different billing system than that used for private line service. Again, in a forward looking environment, and as is the case in other ILECs, both products are handled through the same ordering process and billing system enabling more efficient automation.

Third, the SDC checks the accuracy of the automated provisioning steps performed by two systems to assure the mechanized process does not perform steps that would cause the circuit to be disconnected. The system should not be assigning such steps that would cause it to be disconnected.

Fourth, a Designer reviews, validates, and assures the accuracy of the data as it passes through an additional provisioning system. This is yet another check on an embedded system that would not need to be performed 100% of the time in an efficient systems environment.

Lastly, a Service Delivery Implementer monitors the overall process and manually completes the circuit update in the work force system. Clearly, a forward looking system would minimize, if not eliminate, these manual activities that occur for 100% of the UNE conversions. Personnel costs should only be associated with occasional inaccuracies that are the exception not the rule.

Q. WHAT IS STAFF'S RECOMMENDATION ON THE NRC?

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

VIII. RECOMMENDATIONS

Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.

A. Staff recommends that the Commission not approve the Qwest proposed list of 'non-impaired' wire centers at this time. Both the business line count data and fiber-based collocator data should be updated.

The Commission should require Qwest to recalculate the business line counts based either on March, 2005 data or 2004 ARMIS 43-08 line counts. The Commission should further require that Qwest not multiply its own business lines by the 64kbps voice grade equivalent for unused capacity and that non-switched access line counts be removed from the CLEC UNE-Loop counts. The Commission should find that Qwest need not distinguish between residential and business lines when counting UNE-Loops and that the method for counting UNE-P business lines

served using a residential listing factor to adjust the business line count is appropriate.

The Commission should find that Qwest's process for verifying fiber-based collocators is appropriate with two modifications. Qwest should be required to outline the quality assurance measures in place to assure the accuracy of the data in their systems and records and a determination made of the sufficiency of the measures prior to approving the initial list of fiber-based collocators. Additionally, Qwest should be required to obtain verification from the fiber-based collocator that the collocation meets the conditions as defined in 47 C.F.R. §51.5, Terms and Definitions, Fiber-based collocator.

For updates to the 'non-impaired' wire center list, the Commission should allow Qwest to file as frequently as necessary for updates based on fiber-based collocators and no more than once per year for updates based on business line counts. The Commission should order that Qwest file an application for the approval of each update as outlined in section VI of my testimony.

Lastly, the Commission should find that Qwest should not be allowed to assess a NRC for the conversion of UNEs to alternative Qwest services.

Q. DOES STAFF HAVE ANY FURTHER COMMENTS WITH RESPECT TO THE ABOVE RECOMMENDATION?

A. Yes. Staff views its recommendation as the best recommendation at this time. Staff's ability to provide a more thorough recommendation that addresses the ultimate issue of the approval of a list of 'non-impaired' wire centers has been negated by the failure of Qwest to provide data sufficient to perform the necessary underlying analyses. Staff intervened in this docket because it believed that Qwest would fully cooperate in the disclosure of data necessary to support complete review of Qwest's list of 'non-impaired' wire centers. By only providing data that supports Qwest's list, Staff was limited to critique that data and making the recommendations described above.

Staff views this as an important docket. The public interest is best supported by a docket that reaches the ultimate conclusion – verification of Qwest's list of 'non-impaired' wire centers and identification of any subtractions and reclassifications to the Qwest list – and not one that can only result in a thumbs up or thumbs down to Qwest's list. For this reason, Staff supports revising the procedural schedule in this matter so as to allow additional time for Staff to analyze additional data, specifically more current ARMIS data, and the tracking tools used by Qwest to produce the data. Providing this opportunity for a complete review of all issues within the scope of this docket, will serve the long-term efficiencies of this agency and will avoid the expense of a second docket identical in

scope to this one, both without prejudicing the parties. For these reasons, Staff eagerly awaits the rulings on the pending discovery motions.

Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A. Yes.

APPENDIX A

STATEMENT OF QUALIFICATIONS
OF
LYNN M V NOTARIANNI

In 1984 I received a Bachelor of Science degree in Business Administration (BSBA) from Creighton University with a major in Computer Information Systems. I completed all coursework toward a Master of Science degree in Telecommunications at the University of Colorado in 1993.

My 20-year telecommunications career began in 1984 when I was hired by U S WEST Communications, Inc. Throughout the course of my career, I gained extensive experience by working in several U S WEST and Qwest organizations, including Information Technologies, Network, Mass Markets, and Advanced Technologies. Within each organization, I held management positions and often had major responsibility for managing persons involved in the development and/or implementation of Operations Support Systems ("OSS"). I oversaw Qwest's 271 third-party OSS test which was a comprehensive review of all wholesale processes and systems used in the CLEC interconnection environment. Additionally, I delivered testimony on OSS-related matters and served as a liaison to other Qwest organizations that dealt with IT solutions to regulatory issues. I represented Qwest at numerous state commission and FCC-sponsored workshops and other forums.

I have testified in over forty-five proceedings before federal and state regulatory agencies in arbitration cases, rulemakings, and complaint proceedings concerning Qwest's conformance with state and federal telecommunications laws and regulations. In such capacity, I have testified in 14 state-level arbitration hearings on OSS access, performance measures, and

cost recovery. At the beginning of my tenure in this position, I evaluated the initial OSS impact and the feasibility of technical solutions to IT challenges posed by the passage of the 1996 Act. I also have extensive experience transacting business with CLECs, including issues relating to Qwest Wholesale products and interconnection services, which CLECs sell and utilize. Examples of this experience include: leading multiple OSS negotiations with CLECs, which resulted in draft contractual agreements; impacting interconnection product definition through system and process analysis support for Resale, Unbundled Loops, Poles, Ducts, ROW, and Collocation; and, driving the initial strategy behind the implementation of OSS gateway access for interconnection.

I currently work for the Colorado PUC in the Fixed Utilities Division Engineering section and am responsible for assuring Telecom compliance with state regulations particularly in the areas of Interconnection, Service Quality, 9-1-1, and other telecom related matters.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DOCKET NO. 06M-080T

RE: IN THE MATTER OF THE JOINT COMPETITIVE LOCAL EXCHANGE CARRIERS' REQUEST REGARDING THE STATUS OF IMPAIRMENT IN QWEST CORPORATION'S WIRE CENTERS AND THE APPLICABILITY OF THE FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL REVIEW REMAND ORDER

AFFIDAVIT OF LYNN M V NOTARIANNI
STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION

I, Lynn M V Notarianni, being duly sworn, state that the attached testimony and exhibits were prepared by me or under my supervision, control, and direction; that the testimony and exhibits are true and correct to the best of my information, knowledge and belief; and that I would give the same testimony orally and would present the same exhibits if asked under oath.

_____
Lynn M V Notarianni

Subscribed and sworn to before me in the County of _____, State of Colorado, this __ day of _____ 2006.

_____
NOTARY PUBLIC

My Commission expires: _____