

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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**In the Matter of the Investigation into            )       Docket No. 06-049-40**  
**Qwest Wire Center Data                            )**  
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**RESPONSE TESTIMONY OF**  
**OF**  
**RENÉE ALBERSHEIM**  
**FOR**  
**QWEST CORPORATION**

**May 24, 2006**

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## I. EXECUTIVE SUMMARY

This testimony responds to the testimony of Mr. Douglas Denney of Eschelon Telecom on behalf of the Joint CLECs regarding the future process for updating the list of “non-impaired” wire centers pursuant to the FCC’s requirements in the Triennial Review Remand Order (“*TRRO*”) and the FCC’s associated implementation rules. Specifically, this testimony responds to comments regarding blocking of orders for UNEs in non-impaired wire centers, the timing of the process for updating the list of non-impaired wire centers, and the notice to impacted parties regarding updates to the list of non-impaired wire centers.

## **II. IDENTIFICATION OF WITNESS**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH QWEST.**

**A.** My name is Renée Albersheim. I am employed by Qwest Services Corporation, parent company of Qwest Corporation (“Qwest”), as a Staff Advocate. I am testifying on behalf of Qwest. My business address is 1801 California Street, 24th floor, Denver, Colorado, 80202.

**Q. ARE YOU THE SAME RENÉE ALBERSHEIM THAT FILED DIRECT TESTIMONY IN THIS PROCEEDING?**

**A.** Yes, I am.

## **III. PURPOSE OF TESTIMONY**

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

**A.** The purpose of my testimony is to respond to the rebuttal testimony of Mr. Douglas Denney of Eschelon Telecom filed on behalf of the Joint CLECs. Specifically, I will discuss his statements with regard to the Joint CLECs’ proposed requirements for the process of updating the list of “non-impaired” wire centers in the future pursuant to the

Triennial Review Remand Order (“*TRRO*”)<sup>1</sup> and the FCC’s associate implementation rules.

**IV. UPDATING THE LIST OF NON-IMPAIRED  
WIRE CENTERS**

**Q. PLEASE SUMMARIZE YOUR REVIEW OF MR. DENNEY’S STATEMENTS REGARDING THE PROCESS FOR UPDATING THE LIST OF NON-IMPAIRED WIRE CENTERS IN THE FUTURE.**

**A.** First, despite Mr. Denney’s rhetoric, Qwest and the Joint CLECs are not very far apart in their approach to updating the list of non-impaired wire centers in the future. We agree that there should be a single unified process that includes Commission involvement and approval. As I will explain further below, we only disagree on some issues of timing, as well as a few of the administrative details that the CLECs demand.

**Q. MR. DENNEY STATES ON PAGE 33 OF HIS DIRECT TESTIMONY THAT QWEST’S PROCEDURES ARE VOID OF COMMISSION REVIEW AND OF APPROVAL OF ADDITIONS TO THE WIRE CENTER LIST. IS THIS ACCURATE?**

**A.** No. My direct testimony apparently did not address all of the specifics that the CLECs would have preferred, but in light of Mr. Denney’s objections, I will do so now. Qwest envisions a process similar to current tariff filing procedures. For example, Qwest would file the update to the wire center list with this Commission and provide notice to all

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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 Red 2533, (2004) (“*Triennial Review Remand Order*” or “*TRRO*”).

CLECs via the Change Management Process (“*CMP*”) notification process that an additional wire center is non-impaired.<sup>2</sup> Parties would then have 30 days to raise objections to the Commission, and if no objections were raised, the wire center list would be deemed approved through operation of law.

**Q. SHOULD SUCH A PROCEEDING DELAY THE ADDITION OF NEW WIRE CENTERS TO THE LIST OF NON-IMPAIRED WIRE CENTERS?**

**A.** No. Qwest does not believe that this process should be used as a means to delay the appropriate designation of new wire centers as non-impaired. Therefore, Qwest would ask that any such process be expedited, and that the designation of new non-impaired wire centers be effective 30 days following the initial notification to CLECs that the impairment status for that wire center has changed. If a dispute to the change in impairment status for that wire center were to be raised, Qwest would not implement a change in rates until the proceeding is complete; however, Qwest believes it should have the right to back bill CLECs to the effective date if the change in wire center status is subsequently approved.<sup>3</sup> Qwest also believes that the result of the docket should be *binding* upon *all* CLECs in the state.

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<sup>2</sup> The *CMP* is a formal collaborative process between Qwest and its CLEC customers for management of changes to Qwest’s operations support systems including pre-ordering, ordering, billing and maintenance and repair processes as mandated by the FCC’s 271 requirements.

<sup>3</sup> The FCC anticipated such a “true-up” or back-billing procedure in the *TRRO*. See e.g., *TRRO*, at fns. 408, 524, 630.

**Q. MR. DENNEY STATES AT PAGES 36 AND 37 OF HIS DIRECT TESTIMONY THAT “THIS PROCESS SHOULD NOT BE A PROLONGED PROCESS FOR A NUMBER OF REASONS.” HE STATES THAT “FIRST, ADDITIONS TO THE WIRE CENTER LIST ARE LIKELY TO CONTAIN FEWER WIRE CENTERS THAN THE WIRE CENTERS BEING INVESTIGATED IN QWEST’S INITIAL FILING.” HE ALSO STATES THAT “SECOND, THE ISSUES IN THE INVESTIGATION TO UPDATE THE WIRE CENTER LIST WILL BE NARROW.” DOES QWEST AGREE WITH THESE STATEMENTS?**

**A.** Yes. Qwest and the CLECs are in agreement on these points. The issues in a new proceeding should be narrow, and therefore, the proceeding should not be prolonged.

**V. BLOCKING ORDERS FOR UNES IN NON-IMPAIRED WIRE CENTERS**

**Q. MR. DENNEY STATES ON PAGE 34 OF HIS DIRECT TESTIMONY THAT “QWEST’S PROPOSAL TO *BLOCK* CLEC ORDERS IN OFFICES QWEST DEEMS AS ‘NON-IMPAIRED’ REITERATES THE IMPORTANCE OF HAVING THE COMMISSION APPROVE ANY ADDITIONS TO QWEST’S WIRE CENTER LIST.” (EMPHASIS ADDED.) DOES MR. DENNEY ACCURATELY DESCRIBE QWEST’S PROPOSAL?**

**A.** No. While Qwest agrees that it is important to have this Commission approve additions or updates to Qwest’s non-impaired wire center list, Qwest has *not* stated that it would “block” orders absent such Commission approval. In fact, Qwest would not block orders for UNEs in a particular wire center unless there are no objections to the addition of that

wire center to the non-impaired list, or until the Commission has formally deemed and approved that wire center as being non-impaired. Thus, Qwest is in agreement with the CLECs and Mr. Denney (at page 40 of his direct testimony) that “order rejection should be limited to wire centers on a Commission-approved list of non-impaired wire centers.”

**Q. DOES QWEST DISAGREE WITH MR. DENNEY AND THE CLECs ABOUT ANY ASPECT REGARDING “BLOCKING” OF ORDERS?**

**A.** Yes. Mr. Denney states at page 41 of his direct testimony that “the terms and procedures for rejecting orders must be predetermined and agreed to by CLECs.” Qwest does not agree with this proposition, and Mr. Denney takes this issue too far. All that the parties must agree to is when orders may be rejected; and the parties are already in agreement that Qwest will not block orders for UNEs until a particular wire center is on a Commission-approved list of non-impaired wire centers.

**Q. MR. DENNEY STATES ON PAGE 38 OF HIS DIRECT TESTIMONY THAT QWEST ATTEMPTED TO IMPLEMENT A “CHANGE REQUEST” IN THE CMP THAT WOULD “BLOCK CLEC ORDERS FOR UNES IN WIRE CENTERS THAT QWEST UNILATERALLY BELIEVES ARE NOT IMPAIRED.” IS THAT AN ACCURATE REPRESENTATION OF QWEST’S CHANGE REQUEST?**

**A.** Absolutely not. First, as stated in the Change Request, which Mr. Denney attached to his direct testimony as Exhibit DD-05, the Description of Change section of the Change Request states: “Due to the volume of customers that have opted into the *TRRO*



Amendment, Qwest needs to implement edits in those states, for those customers, where a *TRRO* has been filed, in their states.”

This Change Request had a very specific goal to make a change only for those customers who have already signed a *TRO/TRRO* Interconnection Agreement Amendment with Qwest. Even then, Mr. Denney neglected to point out that in light of the objections to this Change Request by customers who have *not* signed the *TRO/TRRO* Amendment, Qwest voluntarily chose to defer the Change Request until these regulatory issues have been resolved. There was nothing unilateral about this Change Request, or about Qwest’s approach to it.

**Q. MR. DENNEY STATES ON PAGE 39 OF HIS DIRECT TESTIMONY THAT ILECs MUST IMMEDIATELY PROCESS ORDERS FOR UNES FROM A CLEC WHO CERTIFIES THAT IT HAS UNDERTAKEN A “REASONABLY DILIGENT INQUIRY, AND, BASED ON THAT INQUIREY, SELF-CERTIFY [SIC] THAT, TO THE BEST OF ITS KNOWLEDGE,” IT IS ENTITLED TO OBTAIN THE UNE. HOW DOES QWEST RESPOND TO THIS STATEMENT?**

**A.** Mr. Denney is apparently quoting from paragraph 234 of the *TRRO*. While his quote is accurately stated, it is not taken in the appropriate context, and there are inherent contradictions in this paragraph with the advocacy that Mr. Denney and the CLECs have put forth.

I believe it is important to see the paragraph in its entirety. Paragraph 234 states in full as follows:

234. We recognize that our rules governing access to dedicated transport and high-capacity loops evaluate impairment based upon objective and readily obtainable facts, such as the number of business lines or the number of facilities-based competitors in a particular market. We therefore hold that to submit an order to obtain a high-capacity loop or transport UNE, a requesting carrier must undertake a reasonably diligent inquiry and, based on that inquiry, self-certify that, to the best of its knowledge, its request is consistent with the requirements discussed in parts IV, V, and VI above and that it is therefore entitled to unbundled access to the particular network elements sought pursuant to section 251(c)(3). Upon receiving a request for access to a dedicated transport or high-capacity loop UNE that indicates that the UNE meets the relevant factual criteria discussed in sections V and VI above, the incumbent LEC must immediately process the request. To the extent that an incumbent LEC seeks to challenge any such UNEs, it subsequently can raise that issue through the dispute resolution procedures provided for in its interconnection agreements. In other words, the incumbent LEC must provision the UNE and subsequently bring any dispute regarding access to that UNE before a state commission or other appropriate authority.

First, if a CLEC is to “self-certify” that it is allowed to order a UNE in a particular wire center, part of the self-certification should include a notice by Qwest that it intends to change the status of that wire center. If such a filing has been made, the CLEC would then be on notice that its authorization to place such an order is in dispute pending a decision by this Commission on the status of the wire center.

Second, if the parties intend to interpret paragraph 234 of the *TRRO* in this manner as a guide to the process going forward, this would dictate that Qwest might need to file separate proceedings before this Commission with each CLEC that places orders in a particular wire center that Qwest considers to be non-impaired. This type of process would make no sense, would be unduly burdensome, utterly impractical and ultimately unworkable, and would create a morass of litigation, even though all of the parties here

agree that one proceeding for all parties is a more appropriate and desirable mechanism for dealing with any disputed wire centers.

Finally, the CLECs seek preferential treatment when, on the one hand, they demand that Qwest cannot (and will not) block orders in disputed wire centers, but on the other hand, they want to be allowed to place orders in the same disputed wire centers. Such orders would simply add to the base of embedded services that must then be converted to new services if and when the Commission deems such wire centers to be non-impaired.

## VI. TIMING AND NOTICE

**Q. MR. DENNEY STATES ON PAGE 35 OF HIS DIRECT TESTIMONY THAT QWEST SHOULD GIVE NOTICE TO CLECs AT LEAST FIVE BUSINESS DAYS BEFORE IT FILES A REQUEST WITH THIS COMMISSION TO ADD TO THE LIST OF NON-IMPAIRED WIRE CENTERS. IS THAT NECESSARY OR APPROPRIATE?**

**A.** No, it is not. Indeed, Mr. Denney does not explain why CLECs should have more than 30 days to inform this Commission if they have any objection to the addition of a particular wire center to the list of non-impaired wire centers. A time period of 30 days notice is plenty of time for CLECs to determine if they have such an objection to Qwest's non-impaired wire center designation. There is no reason that CLECs should be given notice *before* Qwest actually files a request with this Commission.

**Q. MR. DENNEY STATES ON PAGE 37 OF HIS DIRECT TESTIMONY THAT  
“CLECs SHOULD BE INFORMED WHEN A WIRE CENTER IS WITHIN 5,000  
LINES, OR WITHIN 1 FIBER COLLOCATOR, OF CHANGING  
DESIGNATION.” IS THIS APPROPRIATE?**

**A.** No. There is no reason to add this administrative burden upon Qwest. Additionally, the thresholds that the Joint CLECs set forth are not meaningful. This is especially so because 5,000 lines or one fiber collocator does not mean that a change in the impairment classification for that wire center is imminent. Moreover, advance notification could allow a CLEC to attempt to “game” the system by changing its business plans so that the wire center would be unlikely to meet the threshold.

The FCC set forth the threshold, and requiring reporting in addition to that threshold is an undue burden that the FCC did not contemplate. It should be sufficient that when Qwest becomes aware that a wire center has actually met the requirements to warrant a change in status, Qwest will notify this Commission and CLECs that Qwest is seeking a change in the wire center’s designation.

**Q. MR. DENNEY STATES ON PAGE 37 OF HIS DIRECT TESTIMONY THAT DETERMINING THE TRANSITION PERIOD FOR LOOPS AND TRANSPORT IN IMPAIRED WIRE CENTERS DEPENDS UPON INTERPRETATION OF QWEST'S LANGUAGE. IS THERE ANY AMBIGUITY IN QWEST'S TRO/TRRO AMENDMENT REGARDING TRANSITIONS?**

**A.** No. Mr. Denney even quotes Qwest's *TRO/TRRO* Amendment in footnote 3 of his direct testimony. The quote states that the transition period begins "30 days after notification from Qwest." Thus, transitions begin 30 days after notification. If there is any uncertainty, it might be in the transition timing for wire centers that are in dispute, but this was not the issue that Mr. Denney raises. Obviously, Qwest cannot begin a transition of loops in disputed wire centers until this Commission has determined that those wire centers are non-impaired.

## **VII. CONCLUSION**

**Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

**A.** My testimony identifies several areas where Qwest and the Joint CLECs are in agreement regarding the process for adding wire centers to the list of non-impaired wire centers in the future. Qwest agrees with the Joint CLECs that there should be a single, expedited proceeding before this Commission to resolve issues regarding any disputed wire centers. My testimony also addresses and responds to those additional requirements and administrative procedures that Mr. Denney proposes that are unnecessary and that impose burdens upon Qwest that are of no significant benefit to the parties.

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

**A.** Yes, it does.