



## TABLE OF CONTENTS

	Page
I. EXECUTIVE SUMMARY .....	1
II. IDENTIFICATION OF WITNESS .....	2
III. PURPOSE OF TESTIMONY .....	4
IV. A BRIEF HISTORY OF <i>TRO/TRRO</i> .....	4
V. NON-IMPAIRMENT THRESHOLDS FOR TRANSPORT AND THE WIRE CENTER TIER STRUCTURE .....	8
VI. NON-IMPAIRMENT THRESHOLDS FOR UNBUNDLED DS1 AND DS3 LOOPS.....	12
VII. QWEST'S METHODOLOGIES FOR ESTABLISHING NON-IMPAIRED WIRE CENTERS.....	13
VIII. FUTURE DETERMINATIONS OF NON-IMPAIRED WIRE CENTERS ..	14
IX. CONCLUSION .....	15

1                                   **I.           EXECUTIVE SUMMARY**

2           This testimony provides a brief history of the Triennial Review process that the FCC has  
3           undertaken. It also explains the results of the Triennial Review Remand Order  
4           (“*TRRO*”). In the *TRRO*, the FCC established rules for determining “non-impaired” wire  
5           centers which are used to determine requirements for providing unbundled high-capacity  
6           loops and unbundled dedicated transport. This testimony also introduces the witnesses  
7           that explain Qwest’s methodologies for counting fiber-based collocators and business  
8           lines in order to establish which wire centers in Utah are non-impaired. Qwest asks this  
9           Commission to approve Qwest’s list of non-impaired wire centers in Utah so that Qwest  
10          may implement the rules that the FCC established in the *TRRO*.



1 several of Qwest's Operations Support Systems ("OSS") as a consultant on Human  
2 Resources and Interconnect Access Billing Systems ("IABS") projects.

3 In addition to working full-time at Qwest, I also earned a Juris Doctor degree from the  
4 University of Denver College of Law and passed the Colorado Bar Examination in  
5 October 2001. Prior to attending law school, I received a Master of Business  
6 Administration in Management Information Systems from the University of Colorado  
7 College of Business and Administration in 1985 and a Bachelor of Arts degree from the  
8 University of Colorado in 1983.

9 **Q. HAVE YOU TESTIFIED BEFORE THIS COMMISSION BEFORE?**

10 **A.** Yes, I presented testimony to this Commission in the interconnection agreement  
11 arbitration between Covad and Qwest in 2004, Docket No. 04-2277-02.

12 **Q. HAVE YOU TESTIFIED BEFORE OTHER STATE REGULATORY**  
13 **COMMISSIONS?**

14 **A.** As a witness for Qwest's Global Wholesale Markets organization, I have filed written  
15 testimony and appeared before the commissions in Arizona, Colorado, Minnesota, New  
16 Mexico, Utah and Washington. In my job as an expert on matters dealing with Qwest's  
17 interconnection agreements and operations support systems, I have also submitted written  
18 testimony in Idaho, North Dakota, South Dakota, Montana, and Nebraska.

1 **III. PURPOSE OF TESTIMONY**

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

3 **A.** The purpose of my testimony is to put this case into context by giving a high-level  
4 summary and the appropriate background for the case, as well as to introduce Qwest's  
5 other witnesses who will testify in more detail about the specific issues in the case. For  
6 example, I will explain the origins of the FCC's Triennial Review Remand Order  
7 ("*TRRO*") that is at issue in this proceeding. I will also explain the unbundling changes  
8 mandated by the *TRRO*, and will discuss the portion of the *TRRO* that is being addressed  
9 by this Commission in this proceeding. Finally, as I mentioned, I will introduce each of  
10 Qwest's witnesses, and will briefly describe the testimony that they will provide in  
11 support of Qwest's positions in this case.

12 **IV. A BRIEF HISTORY OF *TRO/TRRO***

13 **Q. PLEASE BRIEFLY DESCRIBE THE GENESIS OF THE FCC'S TRIENNIAL**  
14 **REVIEW.**

15 **A.** In 2001, the FCC initiated a proceeding to review its policies on unbundling under the  
16 Telecommunications Act of 1996 ("the Act").<sup>1</sup> The FCC sought "comment on how best  
17 to update its rules and make them more 'granular' to reflect competitive conditions in

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<sup>1</sup> *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, Notice of Proposed Rulemaking, 16 FCC Rcd 22781 (2001) ("*Triennial Review NPRM*").

1 different markets.”<sup>2</sup> The FCC’s intent was to ensure that its unbundling rules were  
2 faithful to the requirements of the Act, but at the same time reflected changes in the  
3 marketplace for telecommunications services and advances in technology.<sup>3</sup>

4 **Q. WHAT WAS THE RESULT OF THE TRIENNIAL REVIEW?**

5 **A.** Upon completion of the Triennial Review, the FCC published its Triennial Review Order  
6 (“*TRO*”) in October 2003.<sup>4</sup> This order created a revised list of unbundled network  
7 elements (“*UNEs*”), removed unbundling requirements for broadband services in order to  
8 encourage investment in broadband facilities, and established a significant role for state  
9 commissions to determine impairment in markets for dedicated transport and mass  
10 market switching.

11 **Q. DID THESE NEW RULES COMPLETE THE TRIENNIAL REVIEW PROCESS?**

12 **A.** No. A number of impacted parties appealed the *TRO* to the D.C. Circuit Court of  
13 Appeals. The court upheld a number of the rules that the FCC had established in the  
14 *TRO*, but most relevant to this proceeding, the court vacated and remanded the FCC’s  
15 findings of nationwide impairment for mass market switching and dedicated transport.  
16 The court also vacated the FCC’s delegation of authority to state commissions to conduct

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<sup>2</sup> [http://www.fcc.gov/wcb/cpd/triennial\\_review/](http://www.fcc.gov/wcb/cpd/triennial_review/).

<sup>3</sup> *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket No. 01-338, WC Docket No. 04-313, 20 FCC Rcd 2533, at 2 (2004).

<sup>4</sup> *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, 17145 (2003) (“Triennial Review Order” or “*TRO*”).

1 granular impairment analysis as established in the *TRO*. *United States Telecom Ass’n v.*  
2 *FCC*, 359 F.3d 554 (2004) (“*USTA II*”). The court determined that the FCC did not  
3 properly relate the possibility of competitive deployment of facilities in one market to the  
4 actual deployment of facilities in similar geographic markets. *Id.* at 575.

5 **Q. HOW DID THE FCC RESPOND TO THE *USTA II* DECISION?**

6 **A.** In August 2004, the FCC issued an Interim Order and Notice of Proposed Rulemaking  
7 (“*NPRM*”) eliminating a number of sections of the *TRO*, and sought comment on a  
8 response to *USTA II*. The FCC then published the *TRRO* on February 4, 2005.<sup>5</sup>

9 **Q. WHAT RULES ESTABLISHED BY THE *TRRO* ARE RELEVANT TO THIS**  
10 **PROCEEDING?**

11 **A.** Among other things, the *TRRO* clarifies ILEC obligations to provide unbundled access to  
12 dedicated interoffice transport and high-capacity loops. The *TRRO* also clarifies the  
13 “impairment” standard. Impairment is now evaluated as it relates to the capabilities of a  
14 “reasonably efficient competitor.” *TRRO*, at ¶ 24. Using this standard, the *TRRO*  
15 establishes route-by-route unbundling requirements for dedicated interoffice transport  
16 depending on the number of “business lines”<sup>6</sup> and “fiber-based collocators”<sup>7</sup> in particular

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<sup>5</sup> *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket No. 01-338, WC Docket No. 04-313, 20 FCC Rcd 2533, (2004) (“*Triennial Review Remand Order*” or “*TRRO*”).

<sup>6</sup> 47 CFR § 51.5 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.”



1 wire centers. For DS1 and DS3 loops, the FCC uses a methodology similar to its  
2 treatment of high-capacity transport. Specifically, the FCC establishes a wire center-by-  
3 wire center unbundling requirement to determine whether a wire center is subject to  
4 actual or potential competition based on the number of business lines and fiber-based  
5 collocators in that wire center. These new unbundling requirements will be discussed in  
6 greater detail in the next section.

7 **Q. DID THE FCC REQUIRE ILECs TO TAKE ANY IMMEDIATE ACTION IN**  
8 **RESPONSE TO THE *TRRO*?**

9 **A.** Yes. Based on the transition plan outlined in the *TRRO* at paragraphs 142 through 145  
10 and paragraphs 195 through 198, ILECs such as Qwest were required to file a list of non-  
11 impaired wire centers coincident with the effective date of the *TRRO*. Qwest also  
12 received a letter from the FCC requesting the list of non-impaired wire centers. This  
13 letter is attached as Exhibit RA-1. Qwest filed a list of non-impaired wire centers in  
14 February 2005. As discussed in the testimony of Qwest witness Ms. Torrence, the list  
15 was amended in July 2005.<sup>8</sup> The current list of non-impaired wire centers in the state of  
16 Utah is attached as Exhibit RA-2.

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<sup>7</sup> 47 CFR § 51.5 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 power supply, and operates a fiber-optic cable or comparable transmission facility that (1) Terminates at a collocation arrangement within the wire center; (2) Leaves the incumbent LEC wire center premises; and (3) Is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph.”

<sup>8</sup> In August 2005, Qwest submitted a list which corrected a typographical error in the CLLI code of one Colorado wire center. The wire centers listed did not change.

1 **Q. GIVEN THAT THE FCC HAS ESTABLISHED THE RULES FOR**  
2 **DETERMINING NON-IMPAIRMENT, WHY HAS QWEST COME BEFORE**  
3 **THIS COMMISSION?**

4 **A.** Qwest is not asking this Commission to issue an order regarding the *TRRO* rules  
5 themselves. The FCC intended the unbundling rules established in the *TRRO* to be  
6 largely self-effectuating and implemented through negotiations between ILECs and  
7 CLECs. *TRRO*, at ¶ 233. Rather, Qwest is simply asking this Commission to approve  
8 the list of non-impaired wire centers in Utah that Qwest has created to implement the  
9 rules that the FCC established in the *TRRO*. Following a discussion of the new  
10 impairment standards that the FCC established, I will introduce the witnesses who will  
11 discuss Qwest's data in support of this list in more detail.

12 **V. NON-IMPAIRMENT THRESHOLDS FOR TRANSPORT AND THE WIRE**  
13 **CENTER TIER STRUCTURE**

14 **Q. WHAT IS THE WIRE CENTER TIER STRUCTURE THAT THE FCC**  
15 **ESTABLISHED IN THE *TRRO* FOR HIGH-CAPACITY TRANSPORT?**

16 **A.** The FCC created a three-tier structure to classify wire centers based on their potential to  
17 support competitive transport deployment. Per the FCC,

18 "Tier 1" wire centers are those with the highest likelihood for actual and potential  
19 competitive deployment, including wholesale opportunities.

1 “Tier 2” wire centers also show a very significant but lesser likelihood of actual  
2 and potential competitive deployment.

3 “Tier 3” wire centers are those that show a generally low likelihood of supporting  
4 actual or potential competitive transport deployment. *TRRO*, at ¶ 111.

5 **Q. WHAT CRITERIA DID THE FCC USE TO DETERMINE WHICH WIRE**  
6 **CENTERS CAN BE CLASSIFIED AS TIER 1 WIRE CENTERS FOR HIGH-**  
7 **CAPACITY TRANSPORT?**

8 **A.** The FCC defines “Tier 1” wire centers as those with four or more fiber-based collocators,  
9 or with 38,000 or more business lines. 47 CFR § 51.319(e)(3)(i). The FCC determined  
10 that these thresholds indicate that very extensive CLEC transport deployment exists or is  
11 likely to exist in these wire centers, and that competitors are likely to provide transport  
12 services on a wholesale basis. *TRRO*, at ¶ 112.

13 **Q. WHAT CRITERIA DID THE FCC USE TO DETERMINE WHICH WIRE**  
14 **CENTERS CAN BE CLASSIFIED AS TIER 2 WIRE CENTERS FOR HIGH-**  
15 **CAPACITY TRANSPORT?**

16 **A.** The FCC defines “Tier 2” wire centers as those with three or more fiber-based  
17 collocators, or with 24,000 or more business lines. 47 CFR § 51.319(e)(3)(ii). These  
18 thresholds suggest that multiple carriers have overcome the costs of deployment and that  
19 there are revenues available to substantiate deployment. *TRRO*, at ¶ 118.

1 **Q. WHAT CRITERIA DID THE FCC USE TO DETERMINE WHICH WIRE**  
2 **CENTERS CAN BE CLASSIFIED AS TIER 3 WIRE CENTERS FOR HIGH-**  
3 **CAPACITY TRANSPORT?**

4 **A.** The FCC considers all wire centers that are not Tier 1 or Tier 2 wire centers as “Tier 3”  
5 wire centers. 47 CFR § 51.319(e)(3)(iii). Put another way, all wire centers with fewer  
6 than three fiber-based collocators or with fewer than 24,000 business lines are Tier 3 wire  
7 centers.

8 **Q. WHAT IS THE SIGNIFICANCE OF THE FCC’S WIRE CENTER TIER**  
9 **STRUCTURE FOR HIGH-CAPACITY TRANSPORT?**

10 **A.** The FCC uses these tiers as indicators of non-impairment and bases its unbundling  
11 requirements for DS1, DS3 and dark fiber interoffice transport on these tiers. Please see  
12 Exhibit RA-3 for an illustration of the wire center tier structure and the non-impairment  
13 criteria.

14 **Q. WHAT ARE THE UNBUNDLING REQUIREMENTS FOR DS1 TRANSPORT?**

15 **A.** The FCC determined that there is no impairment for DS1 interoffice transport between  
16 Tier 1 wire centers. As a result, ILECs such as Qwest are not obligated to provide  
17 unbundled DS1 interoffice transport on routes connecting two Tier 1 wire centers. 47  
18 CFR § 51.319(e)(2)(ii)(A).

1 **Q. WHAT ARE THE UNBUNDLING REQUIREMENTS FOR DS3 TRANSPORT?**

2 **A.** The FCC concluded that there is no impairment for DS3 interoffice transport on routes  
3 connecting wire centers where both of the wire centers are either Tier 1 or Tier 2 wire  
4 centers. The FCC determined that competitive transport facilities have been or can be  
5 deployed between such wire centers, and that significant revenue opportunities make  
6 such deployments economically feasible. Therefore, ILECs such as Qwest are not  
7 obligated to provide unbundled DS3 interoffice transport on routes connecting either Tier  
8 1 or Tier 2 wire centers. 47 CFR § 51.319(e)(2)(iii)(A).

9 **Q. WHAT ARE THE UNBUNDLING REQUIREMENTS FOR DARK FIBER**  
10 **TRANSPORT?**

11 **A.** The FCC concluded that there is no impairment for dark fiber interoffice transport on  
12 routes connecting wire centers where both of the wire centers are either Tier 1 or Tier 2  
13 wire centers. The FCC determined that competitive transport facilities have been or can  
14 be deployed between such wire centers, and that significant revenue opportunities make  
15 such deployments economically feasible. Therefore, ILECs such as Qwest are not  
16 obligated to provide unbundled dark fiber interoffice transport on routes connecting  
17 either Tier 1 or Tier 2 wire centers. 47 CFR § 51.319(e)(2)(iv)(A).

1       **VI. NON-IMPAIRMENT THRESHOLDS FOR UNBUNDLED DS1 AND DS3 LOOPS**

2       **Q.     DID THE FCC USE THE WIRE CENTER TIER STRUCTURE TO ESTABLISH**  
3       **NON-IMPAIRMENT THRESHOLDS FOR HIGH-CAPACITY LOOPS?**

4       **A.**     No. However, the FCC uses a methodology similar to its treatment of high-capacity  
5       transport in that it establishes a wire center-by-wire center unbundling requirement to  
6       determine whether a wire center is subject to actual or potential competition for high-  
7       capacity loops, based upon business line counts and fiber-based collocator counts.

8       **Q.     WHAT IS THE IMPAIRMENT THRESHOLD FOR UNBUNDLED DS1 LOOPS?**

9       **A.**     Per the FCC, there is no impairment in any building within a service area of a wire center  
10      that contains 60,000 or more business lines and four or more fiber-based collocators. 47  
11      CFR § 51.319(a)(4)(i). Therefore, ILECs such as Qwest are not obligated to provide  
12      unbundled DS1 loops in these wire centers.

13      **Q.     WHAT IS THE IMPAIRMENT THRESHOLD FOR UNBUNDLED DS3 LOOPS?**

14      **A.**     The FCC determined that there is no impairment in any building within a service area of  
15      a wire center that contains 38,000 or more business lines and four or more fiber-based  
16      collocators. 47 CFR § 51.319(a)(5)(i). Therefore, ILECs such as Qwest are not obligated  
17      to provide unbundled DS3 loops in these wire centers.

1 **Q. IS THERE AN IMPAIRMENT THRESHOLD FOR UNBUNDLED DARK FIBER**  
2 **LOOPS?**

3 **A.** No. The FCC determined that there is no impairment for dark fiber loops. Therefore,  
4 ILECs such as Qwest are no longer obligated to provide unbundled dark fiber loops. 47  
5 CFR § 51.319(a)(6)(i).

6 **VII. QWEST'S METHODOLOGIES FOR ESTABLISHING NON-IMPAIRED WIRE**  
7 **CENTERS**

8 **Q. HAS QWEST ESTABLISHED METHODOLOGIES FOR COUNTING FIBER-**  
9 **BASED COLLOCATORS AND NUMBERS OF BUSINESS LINES?**

10 **A.** Yes. These methodologies will be discussed in detail by other Qwest witnesses in this  
11 proceeding.

12 **Q. WHICH QWEST WITNESS WILL EXPLAIN QWEST'S DATA REGARDING**  
13 **FIBER-BASED COLLOCATORS?**

14 **A.** Qwest witness Rachel Torrence will discuss Qwest's count of fiber-based collocators.  
15 Ms. Torrence will provide the results of Qwest's fiber-based collocation counts in Utah  
16 wire centers.

17 **Q. WHICH QWEST WITNESS WILL EXPLAIN THE METHODOLOGY THAT**  
18 **QWEST USES TO COUNT BUSINESS LINES?**

19 **A.** Qwest witness David L. Teitzel will discuss Qwest's count of business lines. Mr. Teitzel  
20 will provide the results of Qwest's business line counts in Utah wire centers.

1 **Q. WHAT IS THE RESULT OF A DETERMINATION OF NON-IMPAIRMENT**  
2 **FOR DS1 OR DS3 TRANSPORT OR FOR CERTAIN HIGH-CAPACITY**  
3 **LOOPS?**

4 **A.** Put very simply, the associated circuits will need to be converted from UNEs to  
5 alternative Qwest services, to another carrier, or self-provisioned by the CLEC.

6 **Q. WHICH QWEST WITNESS WILL DISCUSS THE ACTIVITIES ASSOCIATED**  
7 **WITH SUCH CONVERSIONS?**

8 **A.** Qwest witness Teresa K. Million will discuss the activities associated with the  
9 conversions of UNEs to alternative Qwest services, including Qwest's assessment of a  
10 nonrecurring charge for these conversions.

11 **VIII. FUTURE DETERMINATIONS OF NON-IMPAIRED WIRE CENTERS**

12 **Q. DOES QWEST EXPECT TO UPDATE ITS LIST OF NON-IMPAIRED WIRE**  
13 **CENTERS IN THE FUTURE?**

14 **A.** Yes, Qwest expects to update its list of non-impaired wire centers to the extent that  
15 additional wire centers meet the FCC criteria in the future. As noted above, the FCC  
16 determined that the rules in the *TRRO* are self-effectuating, and that "our unbundling  
17 rules are designed to remove unbundling obligations over time." *TRRO*, at ¶ 3. Thus,  
18 going forward, if updates to the list of non-impaired wire centers are required, Qwest  
19 intends to update the list of non-impaired wire centers using the same counting  
20 methodologies described in this proceeding.



1 **Q. HAS QWEST ESTABLISHED PROCEDURES FOR TRANSITIONING HIGH-**  
2 **CAPACITY UNES WHEN ADDITIONAL WIRE CENTERS ARE FOUND TO BE**  
3 **NON-IMPAIRED?**

4 **A.** Yes. Qwest has memorialized these procedures in section 2.8.4 of the *TRO/TRRO*  
5 Amendment to its interconnection agreements. Summarizing this language:

- 6 • Qwest will provide notice to the CLECs and this Commission when wire centers  
7 are reclassified.
- 8 • Thirty (30) days after such notification, CLECs will no longer order impacted  
9 high-capacity UNEs in or between these wire centers.
- 10 • CLECs will have ninety (90) days to transition existing DS1 and DS3 UNEs to an  
11 alternative service and 180 days to transition dark fiber.

12 **IX. CONCLUSION**

13 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

14 **A.** My testimony describes the history of the FCC's Triennial Review process, as well as the  
15 results of the FCC's *TRRO*. I describe the wire center tiers that the FCC defined to  
16 identify non-impaired wire centers. I also introduce the Qwest witnesses who will  
17 discuss Qwest's count of fiber-based collocators and business lines. Qwest asks this  
18 Commission to adopt Qwest's list of non-impaired wire centers in the state of Utah so  
19 that Qwest may obtain the unbundling relief that the FCC intended in its *TRRO*.

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

2 **A.** Yes, it does.

**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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**EXHIBITS TO DIRECT TESTIMONY OF**

**OF**

**RENEE ALBERSHEIM**

**FOR**

**QWEST CORPORATION**

**MARCH 24, 2006**

## INDEX OF EXHIBITS

### DESCRIPTION

### EXHIBIT

February 4, 2005 Letter from the FCC  
requesting the list of non-impaired wire centers

Exhibit RA-1

Non-impaired Wire Centers in the State of  
Utah

Exhibit RA-2

Wire Center Tier structure and the Non-  
Impairment Criteria

Exhibit RA-3