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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation into Qwest Wire Center Data	Docket No. 06-049-40 QWEST'S RESPONSE TO THE JOINT CLECS' MOTION TO STRIKE PORTIONS OF QWEST'S SURREBUTTAL TESTIMONY AND RELATED EXHIBIT
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Qwest Corporation ("Qwest") hereby submits this opposition to the motion to strike portions of Qwest surrebuttal testimony and exhibits that Covad Communications Company, Eschelon Telecom of Utah, Inc., Integra Telecom of Utah, Inc., McLeodUSA Telecommunications Services, Inc., and XO Communications Services, Inc. (collectively "the Joint CLECs") filed on June 7, 2006. For the reasons set forth below, the Joint CLECs' motion to strike portions of the surrebuttal testimony of Qwest witness David L. Teitzel (at page 9, line 158 through page 10, line 2), and Highly-Confidential Exhibit DLT-2, is without merit and thus should be denied in all respects.

ARGUMENT

On March 24, 2006, Qwest and the Joint CLECs filed their direct testimony. On April 26, 2006, the Joint CLECs filed their rebuttal testimony, and on May 24, 2006, Qwest filed its response testimony. Two days later, on May 26, 2006, the Utah Department of Public Utilities (“DPU”) filed its direct testimony, and on June 5, 2006, Qwest and the Joint CLECs filed surrebuttal testimony. Finally, on June 7, 2006, the Joint CLECs filed their motion to strike portions of Qwest witness David L. Teitzel’s surrebuttal testimony. The Joint CLECs’ motion alleges that the information described on page 9, line 158 through page 10, line 2 of Mr. Teitzel’s testimony, and in Highly-Confidential Exhibit DLT-2, was not provided in response to the Joint CLECs’ March 31, 2006 data requests, and thus deprives them of their due process rights.

The Joint CLECs’ motion to strike is without merit. In fact, Qwest’s response to the data request at issue (Joint CLEC data request No. 30) provided precisely the information the Joint CLECs requested: the access line details behind the specific access line counts that Qwest provided to the FCC in its initial filing identifying the “non-impaired” wire centers in Utah. As discussed in the motion to strike, Qwest provided details in response to request No. 30(d) by describing in detail the process that Qwest used to identify the “full capacity” of DS1 and DS3 services in the business line count for the Salt Lake City Main wire center, which was the only wire center for which Qwest relied on business line data to determine non-impairment in its initial wire center non-impairment list in Utah.

As the Commission knows, the FCC’s threshold for DS1 and DS3 unbundled network element (“UNE”) loop non-impairment is 60,000 business lines in a wire center. That threshold is binary: that is, if a Regional Bell Operating Company (“RBOC”) has more than 60,000 business lines in a wire center, that wire center is defined as “non-impaired” with respect to DS1

and DS3 loops. If the RBOC, however, has fewer business lines than that number in the wire center, the wire center does not meet the standard for non-impairment for these services.

As discussed at pages 19 and 20 of Mr. Teitzel's response testimony, and specifically in Qwest's response to Joint CLEC data request No. 31 in this docket, in its initial filing with the FCC, Qwest did not adjust the ARMIS 43-08 Report data to reflect the fact that "in service" channels associated with certain DS1-based services are tracked in Qwest's systems in wire centers in which the channels *terminate* (as opposed to the "home" wire center in which the service "originates"). This is so because, for purposes of complying with the requirements of the *TRRO* that full DS0 capacity of digital business lines should be included in the business line count, Qwest attributed full DS0 capacity to business DS1 and DS3 services originating from a particular wire center. However, when attempting to utilize ARMIS "used capacity" line data at the wire center level, Qwest's tracking processes do not attribute all active channels in service to the "home" wire center with which they are associated. As discussed in Mr. Teitzel's testimony and in Qwest's response to Joint CLEC data request No. 31, at the statewide level (which is how ARMIS data is reported to the FCC), total digital business "in service" channels are accurate. The data "mismatch" issue arises only when ARMIS data is viewed at the wire center level.

In any event, Qwest did not attempt to adjust for this "mismatch" in the data upon which it relied in its initial wire center non-impairment list that it filed with the FCC. This is so because Qwest developed "total capacity" data for DS1 and DS3-based services by multiplying the underlying active DS1 or DS3 facility in the "home" wire center by the full DS0-level capacity (a factor of 24 for a DS1 loop, and a factor of 672 [24 X 28] for a DS3 loop), recognizing that a DS1 facility has a DS0 capacity of 24 channels and a DS3 facility has a DS0

capacity of 672 channels (or 28 DS1 channels). This process properly attributes the full number of DS0 channels to the correct wire center.

However, Mr. Coleman of the DPU filed direct testimony on May 26, 2006 in which he specifically advocated for the use of only “actual Qwest business lines reported in ARMIS 43-08 without adjusting for digital lines.” (See Coleman Direct, at p. 4.)¹ Thus, in direct rebuttal to Mr. Coleman’s testimony, Mr. Teitzel’s surrebuttal testimony points out that the FCC’s definition of a “business line” includes a requirement that the full capacity of wholesale *and* retail digital business lines should be included in the count when analyzing *TRRO* wire center non-impairment. (See Teitzel Surrebuttal, at pp. 6, 7).

Further, at pages 7 and 8 of his surrebuttal testimony, Mr. Teitzel once again describes the issue of tracking DS0-level channels to the “home” wire center if only the in-service DS0 channels contained in ARMIS are viewed at the wire center level. This discussion is in direct response to Mr. Coleman’s direct testimony on this issue.

Notwithstanding these concerns, however, Mr. Teitzel offered an analysis (at pages 9 and 10 of his surrebuttal testimony, and quantified in Highly-Confidential Exhibit DLT-2) showing that a revised calculation of business lines in service, under Mr. Coleman’s --not Qwest’s-- definition, would *still* yield a business line count *in excess of the 60,000 non-impairment threshold*. Qwest does not agree that these revised quantifications are appropriate, but it nevertheless offered them to demonstrate that Qwest’s Salt Lake City Main wire center would *still meet* the non-impairment threshold for DS1 and DS3 services, even if “actual” December 2003 in-service quantities are considered.

¹ In his testimony, Mr. Coleman does not dispute Qwest’s use of December 2003 ARMIS data in the non-impairment analysis.

In fact, at page 9 of his surrebuttal testimony, Mr. Teitzel stated that “[w]ith the strong caveat that Qwest does not concur with Mr. Coleman that such a method complies with the FCC’s rules, I have determined that using the method discussed in my previous response would yield a lower ‘business line’ tally for the Salt Lake City Main wire center. However, the resulting business line count *would still* exceed the FCC’s threshold of 60,000 business lines . . .” (See Teitzel Surrebuttal, at p. 9 (emphasis in original).)

Accordingly, contrary to the Joint CLECs’ contention, Qwest does not now advocate “that its ARMIS 43-08 switched business line counts should be adjusted to account for services provided out of the Salt Lake City Main wire center with digital business channels allegedly associated with service in a different wire center,” nor does Qwest “now propose[] new business line counts for the Salt Lake Main wire center.” (See Motion, p. 3.) Nor does the information in Mr. Teitzel’s testimony represent a Qwest attempt “to modify its business line counts.” (See Motion, p. 4.) Rather, the information that Mr. Teitzel provides in his surrebuttal testimony is in express response to issues that Mr. Coleman raised in his direct testimony.

In short, Mr. Teitzel’s testimony and associated highly confidential exhibit (Exhibit DLT-2) merely illustrate that the non-impairment threshold for DS1 and DS3 services would nevertheless continue to be met even if “actual” in-service business lines and channels are counted and all digital channels are attributed to the proper “home” wire center. However, Qwest continues to maintain that the method of counting business lines which it used as a basis for its initial filing of non-impaired wire centers with the FCC (including full capacity of DS1 and DS3 services) is entirely proper. Mr. Teitzel’s surrebuttal testimony on this issue responds specifically to assertions that Mr. Coleman raised in his direct testimony and therefore should be allowed.

CONCLUSION

Accordingly, Qwest respectfully submits that the Commission should deny the Joint CLECs' Motion to Strike Portions of Qwest Surrebuttal Testimony and Exhibits in its entirety.

Dated: June 9, 2006.

Respectfully submitted,

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