

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**In the Matter of the Petition of Verizon's)
Objection, Protest and Request for)
Investigation in Response to Qwest's)
Recent Filing of its Revised Access)
Service Tariff Sheets 13, 13.1 and 16)
_____)**

DOCKET NO. 08-2430-01

RESPONSIVE TESTIMONY

OF

PATRICK H. MERRICK

ON BEHALF OF

**MCI COMMUNICATIONS SERVICES, INC.
d/b/a VERIZON BUSINESS SERVICES**

May 28, 2009

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2
3 A. My name is Patrick H. Merrick. My business address is 22001 Loudoun County
4 Parkway, Ashburn, Virginia 20147.

5
6 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

7
8 A. I am employed by MCI Communications Services, Inc. d/b/a Verizon Business
9 Services (“Verizon Business”) as a Group Manager in the Finance Department.
10 My responsibilities include financial analysis and negotiations in support of
11 Verizon Business’s legal and regulatory proceedings covering a wide range of
12 access-related issues. My organization receives, processes, audits and pays all
13 telecommunications invoices on behalf of Verizon Business.

14
15 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

16
17 A. I earned a Bachelor of Science Degree in Business Administration from Northern
18 Arizona University, a Masters of Business Administration Degree with an
19 emphasis in Finance from Illinois Benedictine College, and a Juris Doctor degree
20 from DePaul University College of Law.

21
22 **Q. PLEASE DESCRIBE YOUR RELEVANT TELECOMMUNICATIONS**
23 **WORK EXPERIENCE.**

24
25 A. I began my employment with Verizon Business (formerly MCI) in November of
26 2004 and assumed my current position at that time. Prior to November 2004, I
27 was employed for 20 years by AT&T. I began my employment at AT&T in 1984
28 as a manager for AT&T’s Computer System Division (“CSD”). During my six
29

1 years with CSD, I held a variety of positions with numerous responsibilities,
2 including internal financial analysis, sales support, contract negotiations and
3 product management. In 1990, I transferred to AT&T Financial Regulatory
4 Matters where I was responsible for analysis and the reporting of financial
5 regulatory results for Illinois, Minnesota and North Dakota. In 1993, I transferred
6 to the Law and Public Policy organization and was responsible for supporting
7 AT&T's advocacy of access services issues with the Federal Communications
8 Commission ("FCC") and state commissions. In 1996, I transferred to Central
9 Region, Law and Government Affairs where I was responsible for cost analysis
10 and policy implementation related to AT&T's arbitration proceedings in the states
11 of Illinois, Indiana, Michigan, Ohio and Wisconsin. In April, 1999, I became the
12 Director – Federal Regulatory Affairs for AT&T in Washington D.C., responsible
13 for access and universal service related issues and held that position until
14 November of 2004.

15
16 **Q. HAVE YOU APPEARED OR FILED TESTIMONY IN CASES BEFORE**
17 **ANY STATE REGULATORY COMMISSIONS?**

18
19 A. Yes. I have presented information or testified on behalf of AT&T in Michigan,
20 Illinois, Indiana, Ohio, and Wisconsin, and filed testimony on behalf of Verizon
21 Business in Colorado regarding a similar tariff filing by Qwest in that state.

22
23 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

24
25 A. I will explain Verizon Business's concerns regarding Qwest's proposal to amend
26 its switched access tariff in Utah. That tariff would change the way Qwest
27 determines the jurisdiction of, and applies the proper rate to, various types of

1 communications traffic. I will show that Qwest’s revised practice would
2 improperly subject certain traffic -- in particular, international calls that originate
3 outside of North America and terminate in Utah -- to intrastate switched access
4 rates. This is objectionable because Qwest’s intrastate switched access rates are
5 much higher than its interstate access rates that properly apply to international
6 calls. Qwest’s proposal would disproportionately affect a company such as
7 Verizon Business that is a major provider of international communication
8 services.

9
10 I will also address the 5 percent “floor” included in Qwest’s proposed tariff.
11 Qwest intends to impose intrastate access rates on traffic above that level for
12 which Qwest claims it cannot identify the jurisdiction. I will explain that Qwest
13 established the level of the floor in an arbitrary manner, the floor was set
14 unreasonably low, and allowing Qwest to employ that benchmark would lead to
15 results that are inappropriate and unfair. Finally, I will explain that a key
16 rationale relied upon by Qwest to support its proposed tariff changes – that it is
17 simply “following the lead” of other carriers like Verizon and AT&T that have
18 allegedly implemented similar billing practices, “impose” similar percent of
19 interstate use (“PIU”) floors and “treat unidentified traffic in the same manner that
20 Qwest proposes here”– is incorrect. In fact, neither Verizon nor AT&T has
21 implemented such tariff procedures and neither company is actually billing
22 interexchange carriers (“IXCs”) using the practices Qwest proposes to implement
23 here.

1 **Q. PLEASE DESCRIBE BRIEFLY VERIZON BUSINESS.**

2
3 **A.** Verizon Business provides a number of domestic and international voice and data
4 long-distance communication services. Those services are available to large and
5 small business customers, state and federal government agencies, and residential
6 consumers. Many of our enterprise business and government customers have
7 operations in many states, as well as in other countries. Many of our residential
8 customers have friends and family in other parts of the world. To serve our
9 diverse customer base, Verizon Business has a global network with operations in
10 more than 150 countries worldwide. Accordingly, calls on our network may
11 originate anywhere in the world, from Provo to Peking. Verizon Business routes
12 the calls over our network to whatever destination the calling party has chosen.
13 Because Verizon Business is a major provider of international communication
14 services, our network likely carries more international calls than most other
15 interexchange carriers.

16
17 **Q. IS VERIZON BUSINESS SUBJECT TO QWEST'S ACCESS TARIFF?**

18
19 **A.** Yes. All of the traffic I described above has to terminate somewhere. Calls that
20 enter Verizon Business's long distance network and are destined for Qwest's end-
21 user customers in Utah are routed by Verizon Business to Qwest for termination.
22 As a local exchange carrier ("LEC"), Qwest provides a switched access service
23 when it terminates interexchange traffic. Calls that originate outside of Utah and
24 terminate in Utah are interstate calls, and the rates, terms and conditions in
25 Qwest's interstate access tariff apply. That tariff is filed with the FCC and is
26 designated Qwest Corporation Access Service Tariff F.C.C. No. 1. The access

1 rates in Qwest's FCC tariff also apply to international calls that are terminated by
2 Qwest in Utah. On the other hand, an interexchange call that both originates and
3 terminates within Utah is an intrastate call, and is subject to the rates, terms and
4 conditions in Qwest's intrastate access tariff. This tariff would apply, for
5 example, to a call that originates in Moab and terminates in Salt Lake City.

6 **Q. WHY IS IT NECESSARY TO DETERMINE THE PROPER**
7 **JURISDICTION OF CALLS?**
8

9 A. The rates that apply to calls vary depending on their jurisdiction. For example, I
10 believe that a residential consumer generally understands that a local telephone
11 call within the Salt Lake City metropolitan area may cost less than making a call
12 from Salt Lake City to Orlando, Florida, and that it may cost even more to place a
13 call from Salt Lake to Singapore. Similarly, Qwest charges different rates for
14 essentially the same switched access service, depending on whether the long
15 distance call is interstate or intrastate. Those rates may vary substantially, as
16 evidenced by the rates Qwest charges interexchange carriers pursuant to its
17 interstate switched access tariff on file with the FCC and its intrastate access tariff
18 in Utah. For example, just looking at one rate element, local switching, the rate in
19 Qwest's interstate tariff is \$ 0.001974 per minute of use, whereas the rate for local
20 switching in its intrastate tariff is nearly five times higher, or \$ 0.009736 per
21 minute. See Qwest Tariff F.C.C. No. 1, § 6.8.2.A; Qwest Access Service Tariff
22 Utah, § 6.8.2.A. The average per-minute charge that Qwest bills Verizon
23 Business for terminating an intrastate interexchange call in Utah is more than five
24 times higher than the amount it bills Verizon Business for terminating an
25 interstate long distance call. See Confidential Exhibit PHM-1. Verizon Business

1 has a strong interest in ensuring that Qwest properly determines the jurisdiction of
2 the traffic that it terminates and that it applies the correct rates. It is important
3 that interstate and international calls be assessed the correct interstate access rate,
4 and that the much higher intrastate access rate is not imposed. Otherwise, Qwest
5 would be incorrectly billing the interexchange carrier.

6
7 **Q. CAN COMMUNICATIONS CARRIERS GENERALLY DETERMINE**
8 **THE PROPER JURISDICTION OF CALLS?**

9
10 A. Yes. The jurisdictional assignment of calls involves a determination of the
11 geographic origination and termination points of the call. Telephone companies
12 obtain information primarily from SS7 signaling records, switch-based call
13 records and other data bases to enable them to make those determinations. If a
14 domestic POTS (Plain Old Telephone Service) number is available in the call
15 records, the carrier will often utilize LERG (Local Exchange Routing Guide) and
16 TPM (Terminating Point Master) databases to help with that determination. In
17 the absence of such POTS telephone numbers or when SS7 data identifies traffic
18 as wirelessly originated, Verizon Business relies on the best available information
19 to determine the location for that end point. Depending on the type of call, this
20 may include customer trunk information for Dedicated Access Line (DAL)
21 connections, JIP (Jurisdictional Information Parameter), or the terminating
22 equipment or customer location for an SS7 Point Code. As I will describe below,
23 there are also certain “international indicators” that identify calls that originate
24 internationally.

1 Having said that, I will also point out that interexchange carrier networks today
2 are a complex array of technologies which bear little resemblance to the simple
3 voice-based, 1+ long distance calling of 20 years ago. This reflects in part the
4 growing complexity of customer requirements. For these and other reasons, there
5 are circumstances in which there may not be sufficient information available in
6 the signaling message to readily identify a call's jurisdiction. This is not a new,
7 let alone unique, phenomenon. As Mr. Easton points out, "[a]ll local exchange
8 carriers receive a certain amount of traffic for which the jurisdiction cannot be
9 determined" (Easton Testimony at 5).

10
11 **Q. DO YOU AGREE WITH MR. EASTON'S ASSERTION (ON PAGE 5 OF**
12 **HIS TESTIMONY) THAT IN CASES WHERE THE CALLING PARTY**
13 **INFORMATION LACKS A VALID CALLING PARTY NUMBER OR A**
14 **CHARGE PARTY NUMBER, QWEST IS "UNABLE TO DETERMINE**
15 **THE APPROPRIATE JURISDICTION OF THE TRAFFIC"?**

16
17 A. No. As I stated above, a variety of information in addition to the Calling Party
18 Number or a Charge Party Number is available and may be used by carriers to
19 determine the jurisdiction of different types of calls. For example, I will describe
20 later some of the information that may be used to determine the jurisdiction of
21 international calls that originate outside of North America. Qwest's claim that it
22 is unable to determine the appropriate jurisdiction of certain types of traffic is
23 primarily a reflection of the internal processes it follows and the information it
24 chooses to review.

25

1 **Q. HAS QWEST DEMONSTRATED THAT THE JURISDICTION OF**
2 **VIRTUALLY ALL TRAFFIC SHOULD BE READILY IDENTIFIABLE?**
3

4 A. No. At page 4 of his testimony, Mr. Easton refers to “a study that Qwest
5 conducted on IXC-bound traffic that its end-users originated.” According to Mr.
6 Easton, 100 percent of that traffic contained adequate information to determine
7 the appropriate jurisdiction of the call. That result is hardly remarkable. Qwest’s
8 finding that there are no inherent technical problems with the Feature Group D
9 (“FGD”) signaling protocol that might contribute to the occasional lack of
10 jurisdictional information also is of no import. In discovery, Qwest
11 acknowledged that its “study” only considered FGD-originated calls placed by its
12 local exchange customers that are connected to its own local switches. Given
13 these parameters, it would be surprising if Qwest could *not* identify the
14 geographic origination of 100 percent of such calls. Many calls do not originate
15 in FGD format, which is generally associated with conventional “1+” long
16 distance voice calls. Notably, the Qwest “study” did not include calls that were
17 originated on other networks, outside of the country, on wireless devices, or over
18 Dedicated Access Lines that do not use FGD signaling. Because Qwest did not
19 evaluate any of those types of calls, its study revealed nothing of significance.

20
21 **Q. HOW HAS THE INDUSTRY HANDLED CALLS WHOSE**
22 **JURISDICTION CANNOT READILY BE DETERMINED?**
23

24 A. Qwest’s interstate access tariff is similar to that of other large LECs and reflects a
25 standard practice that has existed within the industry for many years. Section
26 2.3.10 B.2 c. of its Tariff FCC No. 1 states that if Qwest “has sufficient call

1 details to determine the jurisdiction for the call, [it] will bill the call minutes of
2 use according to that jurisdiction.” However, “[w]hen terminating details are
3 insufficient to determine the jurisdiction for the call, the [interexchange
4 carrier/access customer] may supply the projected PIU [Percent of Interstate Use]
5 factor by LATA. The projected PIU factor will be used to apportion terminating
6 call minutes for which call details were insufficient to determine jurisdiction
7 between the interstate and intrastate jurisdictions.” Finally, “[w]hen terminating
8 call details are insufficient to determine the jurisdiction, and the customer does
9 not supply a projected PIU factor by LATA, calls will be billed using a PIU of 50
10 (50% interstate – 50% intrastate).” The language in Qwest’s current intrastate
11 tariff is virtually identical, but it is these provisions that Qwest is proposing to
12 change.

13
14 Verizon Business and other interexchange carriers file their PIU factors with
15 Qwest and other LECs. As stated in Qwest’s tariff, these PIU factors are used to
16 assign jurisdiction to calls when there is insufficient call detail. If an IXC does
17 not provide PIU factors, then Qwest’s default PIU factor of 50 is applied.

18
19 **Q. HAS QWEST EXPLAINED WHY IT IS NOW PROPOSING TO**
20 **ABANDON THIS LONGSTANDING APPROACH AND RELIANCE ON**
21 **PIU FACTORS?**

22
23 A. No, it has not. After describing the current PIU process, Qwest’s witness devotes
24 only four sentences of his testimony to this important issue. According to Mr.
25 Easton, “[t]he current method creates an incentive for arbitrage” (Easton
26 Testimony at 6). Mr. Easton admits that Qwest’s intrastate access rates are

1 higher than its interstate access rates and concludes that this gives IXCs an
2 incentive to have as much traffic as possible rated at interstate rates. But Mr.
3 Easton ignores the obvious corollary, namely, that Qwest has an equally strong
4 incentive to impose its higher intrastate access rates on as much traffic as
5 possible, and thereby increase its revenues. Mr. Easton goes on to state that
6 Qwest has identified some IXCs “that have abnormally high amounts” of
7 unidentified FGD traffic. However, he does not explain how this phenomenon
8 relates to his prior discussion about PIUs and their supposed effect on carriers’
9 incentives. He asserts that the existence of such traffic is “a problem,” and
10 explains that “[i]n order to address this problem and to prevent it from occurring
11 in the future,” Qwest is proposing to modify its tariff and change its longstanding
12 PIU process.

13
14 **Q. HAS QWEST IDENTIFIED THE EXISTENCE OF ANY SPECIFIC**
15 **PROBLEM?**

16
17 A. No, it has not. Mr. Easton merely states that Qwest has observed some
18 “abnormally high” amounts of unidentified traffic. He did not define normal or
19 abnormal, or explain why one particular level of unidentified traffic necessarily
20 demonstrates that a specific problem actually exists. By defining the “problem”
21 in only an abstract way, Mr. Easton did not present any qualitative evaluation of
22 the traffic in question. Standing by itself, a claim that the level of some
23 unspecified carriers’ unidentified traffic is “abnormally high” does not tell us very
24 much.

1 Mr. Easton also did not indicate that Qwest had examined the traffic in question
2 or evaluated the potential reasons why Qwest may not have been able to identify
3 it. Nor did he show that the unidentified traffic was the result of arbitrage,
4 intentional error, or manipulation by any IXC. Mr. Easton argues that the
5 proposed tariff changes are “designed to deal with situations where an IXC
6 inadvertently or intentionally attempts to avoid paying appropriate intrastate
7 access rates by delivering traffic without identifying information” (Easton
8 Testimony at 7), but he did not present any specific examples to demonstrate that
9 such abuses are actually occurring. Instead, Qwest’s premise appears to be based
10 only on speculation or conjecture. In discovery, Verizon asked whether it was
11 Qwest’s position 1) that its inability to determine a call’s jurisdiction “is the result
12 of either intentional arbitrage or inadvertent error in the manner in which the IXC
13 delivers the traffic,” and 2) when an IXC delivers international calls to Qwest for
14 termination that “the IXC is inadvertently or intentionally attempting to avoid
15 paying appropriate intrastate access rates.” In both instances, Qwest responded
16 by stating that “Qwest is unaware of an IXC’s motivation when delivering
17 terminating traffic for which Qwest does not determine the call’s jurisdiction.”¹

18

19 **Q. DO YOU AGREE WITH MR. EASTON’S CLAIM (AT PAGE 12) THAT**
20 **IXCS CURRENTLY HAVE NO INCENTIVE TO ENSURE THAT CPN**
21 **INFORMATION IS APPROPRIATELY POPULATED AND THAT THE**
22 **TARIFF CHANGES QWEST PROPOSES WOULD REVERSE THE**
23 **INCENTIVES?**

24

25 A. No, I do not. As I explain in my testimony, many calls do not contain “CPN”
26 information, including certain international traffic. Leaving aside that technical

¹ Qwest’s Responses to Verizon 1-007 and 1-008 in the companion tariff proceeding in Oregon, UT 157.

1 distinction, I disagree with the implication that IXCs have an incentive somehow
2 not to transmit information about the origination of calls. In the case of Verizon
3 Business, when we receive traffic from another network – and we receive traffic
4 from hundreds of other service providers, both domestically and internationally --
5 we pass along all of the call detail information we receive; Verizon Business does
6 not strip, add, mask or otherwise manipulate any of the call detail information that
7 we receive from other service providers. Thus, contrary to Mr. Easton’s
8 suggestion, the proposed tariff changes would have no effect on Verizon
9 Business’s existing practice, which is to pass along all information about the
10 origination of traffic that it delivers to Qwest.

11

12 **Q. HAS QWEST DEMONSTRATED THAT ITS PROPOSED SOLUTION**
13 **WOULD REDUCE INCENTIVES FOR “ARBITRAGE”?**

14

15 A. No. In fact, Qwest’s theory that the potential for arbitrage leads to a high amount
16 of “unidentified” traffic is inconsistent with Qwest’s own historical study of
17 traffic data across its 14-state region. According to Mr. Easton, the current
18 system “creates an incentive for arbitrage.” (Easton Testimony at 6). He states
19 that because intrastate access rates are generally higher than interstate rates, IXCs
20 have “an incentive to have as much traffic as possible rated at interstate rates” and
21 “have no incentive to ensure that CPN information is appropriately populated”
22 (Easton Testimony at 6 and 8). However, Qwest presented an analysis of
23 historical traffic data in Confidential Exhibit WRE-1.2 that provides no
24 evidentiary support for that position. Of particular note, Qwest is required by
25 state law in New Mexico to charge the same rates for intrastate switched access as

1 it charges for interstate access. Because intrastate and interstate rates are the
2 same, there is no opportunity or incentive for arbitrage in that state. Yet, the
3 results of the traffic termination studies shown in Confidential Exhibit WRE-1.2
4 reveal that New Mexico has the *highest* percentage of traffic of “unknown
5 jurisdiction” throughout Qwest’s 14-state service area. Moreover, the percentage
6 of traffic of “unknown jurisdiction” in New Mexico is from 60 to 162 percent
7 higher than the percentage of such jurisdictionally unknown traffic in seven of the
8 14 states. Qwest’s own traffic study does not demonstrate any correlation
9 between the potential for arbitrage because of disparate rates and the volume of
10 jurisdictionally unidentified traffic. There is no rational basis to reach a counter-
11 conclusion that the absence of a rate disparity somehow creates an incentive for
12 carriers to transmit larger volumes of traffic without sufficient information to
13 determine its jurisdiction. Among other things, this would suggest that IXCs
14 make a determination about the information they transmit on a state-by-state
15 basis, but such a scenario is even less plausible.

16
17 **Q. ASSUMING QWEST CAN DEMONSTRATE THE EXISTENCE OF AN**
18 **ACTUAL PROBLEM, IS THE “SOLUTION” REPRESENTED BY THE**
19 **PROPOSED TARIFF CHANGES THE ONLY RECOURSE AVAILABLE**
20 **TO IT?**

21
22 A. No, of course not. As I explained before, for a number of years, Qwest’s tariffs,
23 like those of other large LECs, have relied on PIU factors for determining the
24 jurisdiction of traffic that carriers cannot readily identify. Qwest’s FCC tariff
25 includes provisions that enable Qwest to question, and ultimately audit, an IXC’s
26 reported PIU factors. If Qwest believes that a particular IXC is reporting

1 incorrect PIUs or intentionally providing erroneous or insufficient information, its
2 tariff already provides it with a process to address those concerns. Mr. Easton did
3 not explain, however, why Qwest has not been able to address any such situations
4 that might have occurred through the existing tariff processes. In fact, while
5 Verizon Business and Qwest have had several disagreements over time, Verizon
6 Business has offered several times during the past year to meet with Qwest to
7 cooperatively address those issues. While no such meetings have yet taken place,
8 Verizon Business continues to believe that the cooperative process previously
9 agreed to by the two companies along with existing tariff procedures provide an
10 appropriate means for addressing mutual concerns.

11
12 If Qwest is genuinely concerned about “arbitrage” given the wide discrepancy
13 between its interstate and intrastate switched access rates in Utah, Qwest can
14 readily eliminate that problem by bringing its intrastate rates into line with its
15 interstate rates. The company has already done this in New Mexico, where its
16 interstate and intrastate rates are at parity. Perhaps it was because its interstate
17 and intrastate access rates are aligned in New Mexico that Qwest has not
18 proposed to make similar changes to its access tariff there. The problem with
19 Qwest’s proposal here is that it would potentially subject more interstate and
20 international traffic to high intrastate rates.

21
22 **Q. IN VERIZON BUSINESS’S EXPERIENCE, WHAT ARE THE PRIMARY**
23 **SOURCES OF “UNIDENTIFIED TRAFFIC”?**

24
25 A. To answer this first requires an understanding of the phrase “unidentified traffic.”
26 Qwest’s proposed tariff changes focus on traffic that it claims lacks “sufficient

1 call detail to determine jurisdiction.” According to Mr. Easton, Qwest’s business
2 practice is to determine whether a valid Calling Party Number (“CPN”) or Charge
3 Party Number (“ChPN”) is present; if not, Qwest states it “is unable to determine
4 the appropriate jurisdiction of the traffic” (Easton Testimony at 4-5). On that
5 basis, Qwest classifies traffic for which the originating number information lacks
6 a valid CPN or ChPN as “unidentified.” Qwest’s tariff defines “Calling Party
7 Number” as “the calling party’s ten digit telephone number ... [which] consists of
8 the Numbering Plan Area (NPA) plus the seven digit telephone number.” Qwest
9 Utah Access Service Tariff § 6.3.1.Q.

10
11 Mr. Easton acknowledges that “[a]ll local exchange carriers receive a certain
12 amount of traffic for which the jurisdiction cannot be determined” (Easton
13 Testimony at 5). There are several types of bona fide traffic that fall in this area.
14 As I will discuss more fully, many internationally-originated calls do not follow
15 the 10-digit format described above (NPA plus seven digits), and are thus, by
16 definition, “unidentified” under Qwest’s business practice. Calls placed by
17 business customers that originate over dedicated access lines connected to PBXs
18 also may not include CPN or ChPN; instead, an IXC historically may have
19 identified that traffic by its Dedicated Access Line trunk group, as opposed to a
20 10-digit POTS number.

21

1 **Q. PLEASE DESCRIBE BRIEFLY THE NUMBERING PLANS THAT**
2 **APPLY TO INTERNATIONAL TELEPHONE CALLS.**

3
4 A. For purposes of this discussion, it is important to distinguish between two
5 categories of international calls. International telephone calls that originate in
6 Canada and most of the Caribbean follow the North American Numbering Plan
7 (“NANP”), as does the United States. Calls within the NANP use the “NPA
8 NXX” format, where NPA represents the area code (such as 801) and NXX
9 denotes the serving end office. The NPA NXX is followed by four digits that
10 identify the local subscriber. Thus, a valid NANP number has ten digits, such as
11 801-530-6700. International calls that originate outside of the NANP area
12 (“NANPA”), *i.e.*, the rest of the world, follow a different numbering plan adopted
13 by the International Telecommunications Union, in particular ITU-T
14 Recommendation E.164. The structure of an international E.164 number does not
15 follow the NPA NXX format, nor does it use that term. An international
16 telephone number includes a country code that may consist of one, two or three
17 digits. An international number may have fewer than ten digits, and it may have
18 as many as 15 digits, including the country code. Most areas of Mexico are not
19 within the North American Numbering Plan, so calls from those areas fall within
20 the second category of international calls, *i.e.*, non-NANPA originated.

21
22 **Q. PLEASE EXPLAIN THE MANNER IN WHICH QWEST TREATS**
23 **INTERNATIONAL CALLS THAT ORIGINATE IN NORTH AMERICA.**

24
25 A. Qwest has informed Verizon Business that its billing systems handle international
26 calls that originate within the NANPA just like any other NANP call that
27 originates and terminates within the United States. Accordingly, if the Calling

1 Party Number of a call that is originated in Canada is a 10 digit telephone number
2 and has a valid NPA NXX, my understanding is that Qwest will be able to
3 identify the jurisdiction of the call and apply the appropriate rates. If such a call
4 originates in Canada and terminates in Utah, Qwest would identify it as an
5 international call and charge its interstate access rates. As Qwest explained in its
6 response to one of Verizon Business's data requests, "[v]alid NPA NXX traffic
7 that is international is billed as interstate and is indistinguishable from interstate
8 domestic traffic." Verizon Business agrees that this is the correct approach for
9 international calls that originate within the North American Numbering Plan.

10
11 **Q. DOES QWEST TREAT INTERNATIONAL CALLS THAT ARE**
12 **ORIGINATED OUTSIDE OF THE NORTH AMERICAN NUMBERING**
13 **PLAN IN A DIFFERENT MANNER?**

14
15 A. It certainly does. Qwest's business practices essentially ignore all international
16 calls that originate outside of the NANP area. It is this different treatment that
17 lies at the heart of Verizon Business's concerns with the tariff changes Qwest is
18 proposing. Qwest explained in its response to a data request, "[t]he method used
19 [by Qwest] to determine jurisdiction is a multi-step process involving the
20 comparison of originating and terminating NPA/NXX." As I explained before,
21 under its business rules, Qwest attempts to determine whether there is a valid
22 CPN, which it defines as a ten digit telephone number consisting of the
23 Numbering Plan Area ("NPA") plus a seven digit telephone number. Because
24 international calls that originate outside of the NANPA do not follow this
25 numbering protocol, Qwest automatically classifies *all* such calls to be of

1 “unidentified” jurisdiction. In fact, because Qwest’s business practice is to look
2 for a valid NPA NXX, it does not even examine internationally-originated calls
3 that do not follow that format. This is evidenced by Qwest’s response to the
4 following Verizon Business data request:

5 “Does Qwest attempt to identify the jurisdiction of international calls that
6 are originated outside of the North American Numbering Plan area?”
7

8 In response, Qwest answered “No.” Thus, if an international call has fewer or
9 more than ten digits, or is not in the NPA NXX dialing format, Qwest takes the
10 position that the calls lack “sufficient call detail to determine jurisdiction.” Qwest
11 did not inform Verizon Business that this was its business practice until March 16,
12 2009, in response to Verizon’s data requests 01-010 and 01-011 in this
13 proceeding. Because all non-NANPA originated international calls are labeled by
14 Qwest as “unidentified,” they would be included within the volume of traffic that
15 would be considered when applying Qwest’s proposed new “floor,” above which
16 amount these international calls would be subject to intrastate access rates. I will
17 explain below how Qwest’s failure to correctly jurisdictionalize this international
18 traffic will cause it to improperly bill for these calls, if it is permitted to put its
19 proposed tariff changes in effect.²

20
21 **Q. CAN THE JURISDICTION OF INTERNATIONAL CALLS BE**
22 **DETERMINED?**
23

24 A. Yes. Again, my response focuses only on international calls originated outside of
25 the North American Numbering Plan area. Merely because Qwest categorizes

² Exhibits WRE-1.3 and WRE-1.4 contain briefing papers prepared by the staff of two other state commissions. Those papers were prepared before Qwest revealed its practices with respect to the handling of non-NANPA originated international calls. Because there was no discovery in those other state proceedings, this critical information was not made known to those commissions.

1 such traffic as “unidentified” or of “an indeterminate jurisdiction” does not mean
2 that the jurisdiction of these calls cannot be identified. International calls
3 typically include, as part of the SS7 signaling message, a “country code” plus
4 additional digits, or an “international indicator” that will indicate that it is an
5 incoming international call. Verizon Business uses this information to identify
6 the jurisdiction of international calls and when developing our PIU factors. As
7 the terminating LEC, Qwest receives the same signaling information on calls it
8 terminates. However, Qwest has informed us that under its business practices it
9 does not review these international indicators or use that information before
10 determining the call’s jurisdiction. Regardless of whether these practices might
11 represent a generally appropriate balance, given the cost associated with these
12 additional steps compared with their benefits, it would not be appropriate to
13 punish carriers of international traffic for exchanging traffic that Qwest has
14 simply chosen to label “unidentified.”

15
16 **Q. WHY DOES VERIZON BUSINESS OBJECT TO THE WAY QWEST**
17 **TREATS THESE INTERNATIONAL CALLS?**

18
19 A. As I stated at the outset, Verizon Business is a major provider of international
20 communication services. Our worldwide network handles a tremendous volume
21 of international calls, including those we terminate in Utah. If the jurisdiction of
22 these calls is correctly identified and the proper rates are applied, Verizon
23 Business would pay Qwest’s interstate access rates. However, because Qwest’s
24 business practice is to automatically label all non-NANPA originated
25 international calls as “unidentified,” all of this traffic would potentially be subject

1 to higher intrastate charges under the operation of Qwest's proposed tariff. Qwest
2 has made the business decision not to evaluate the jurisdiction of any non-
3 NANPA originated calls; it cannot then penalize Verizon Business for the
4 consequences of that business decision. Verizon Business expects that, in an
5 expanding global economy, the amount of international calling will increase over
6 time. Indeed, I understand that even before he was named Ambassador to China,
7 Governor Huntsman had been actively engaged in promoting increased trade and
8 commerce between Utah and Asian markets. As those opportunities expand over
9 time, they will be accompanied by a growing need for reliable international
10 communications. It is not a reasonable practice to simply treat all such
11 international calls as "unidentified," and thereby subject them to potentially
12 higher intrastate rates, when the only valid rates that should be applied to such
13 traffic are those contained in Qwest's interstate access tariff.

14 Because some of the so-called "unidentified" traffic will be non-NANPA
15 originated international calls and Qwest will be collecting intrastate charges on
16 them, Verizon Business is concerned that Qwest will begin charging it –
17 inappropriately -- the higher intrastate rates for such calls and Verizon Business's
18 expenses will increase as a result.

19
20 Verizon Business has reviewed the interexchange traffic that it delivered to Qwest
21 in Utah in recent months. As part of that evaluation, Verizon Business
22 determined the amount of non-NANP originated international calls, identified by
23 using the international call indicators I referenced earlier. That analysis indicates

1 that the amount of non-NANP originated international traffic that Qwest considers
2 “unidentified” may be higher than the 5 percent floor that Qwest proposes to
3 impose. See Confidential Exhibit PHM-2. This would mean that a portion of
4 Verizon Business’s non-NANPA originated international traffic would be billed
5 the higher intrastate rates in Qwest’s Utah tariff. This is neither appropriate, nor
6 fair. It is possible that some amount of traffic that contains valid international
7 indicators may lack or include other information in the signaling message that
8 may raise questions about the actual point of origination. However, there is no
9 indication that that amount is substantial, nor does it negate the serious problem I
10 have already identified – the fact that Qwest’s proposal would subject legitimate
11 non-NANPA originated international traffic to higher intrastate access charges.
12 Critically, Qwest’s proposal, as currently structured, omits any process that would
13 deal with these concerns.

14
15 **Q. HOW SHOULD QWEST HANDLE THESE NON-NANPA**
16 **INTERNATIONAL CALLS?**

17
18 A. Because Qwest’s proposed tariff would subject “unidentified” traffic above a
19 certain level to intrastate access charges, it is essential that legitimate non-
20 NANPA originated international calls be excluded from that calculation. Verizon
21 Business recommends that the Commission require Qwest to establish a process
22 by which a carrier with a significant amount of non-NANPA originated
23 international traffic may work with Qwest to have those calls removed from the
24 category of “unidentified” traffic that is potentially subject to the proposed
25 benchmark mechanism. For example, carriers could calculate the amount of

1 international traffic that should be excluded from the calculation of traffic subject
2 to the “floor,” perhaps on an annual or semi-annual basis. This process would
3 also provide a mechanism for removing from the “bucket” of legitimate
4 international traffic any calls that have valid international call indicators but for
5 other reasons may not be deemed to be valid international calling numbers.

6
7 **Q. PLEASE DESCRIBE THE PROPOSED FLOOR IN QWEST’S PROPOSED**
8 **TARIFF.**
9

10 Q. Under Qwest’s current FCC and Utah state tariffs, Qwest uses PIU factors to
11 assign jurisdiction to calls when there is insufficient call detail. If an IXC does
12 not provide PIU factors, then the default PIU factor of 50 is applied. Under its
13 proposed tariff, Qwest would continue to apply the PIU factor if the percentage of
14 terminating traffic without sufficient call detail to determine jurisdiction (that is,
15 “unidentified traffic”) is relatively small and does not exceed a newly-created
16 “floor.” If the percentage of “unidentified” terminating traffic is greater than the
17 floor, then Qwest proposes to impose its intrastate switched access rates on all
18 minutes that exceed the floor. Qwest included these tariff changes in A.L. 2008-
19 T01 filed on October 30, 2008. In that initial filing, Qwest proposed to set the
20 floor at 7 percent of an IXC’s total FGD terminated traffic. Only three weeks
21 later, on November 21, 2008, Qwest filed revisions to its tariff filing, and
22 proposed to lower the floor to 5 percent.
23

1 **Q. QWEST ATTEMPTS TO JUSTIFY ITS TARIFF PROPOSAL BY**
2 **CLAIMING THAT IT IS FOLLOWING THE LEAD OF OTHER LECS**
3 **THAT HAVE IMPLEMENTED SIMILAR TARIFFS AND HAVE**
4 **IMPOSED SIMILAR PIU FLOORS. WHAT IS YOUR RESPONSE?**

5
6 A. Mr. Easton makes those points repeatedly, but he is wrong in all respects. On the
7 one hand, Qwest’s proposal is not similar to the intrastate tariffs he cites (at pages
8 9-10). When the Verizon ILECs filed their intrastate tariffs, they contained an
9 effective floor of 9 percent (7 percent plus a 2 percent “grace” amount), and the
10 BellSouth tariffs contained a floor no lower than 7 percent. As a practical matter,
11 there is a substantial difference between those levels and Qwest’s desire to impose
12 a much lower floor in Utah, as Qwest would impose its higher intrastate rates on a
13 substantially greater amount of traffic than Verizon and BellSouth would have
14 (had either company implemented those tariff provisions).

15
16 The more fundamental problem with Qwest’s rationale is that Qwest is
17 completely mistaken about the actual billing practices of the other two carriers
18 upon whom it relies to support its own proposal. While Verizon and BellSouth
19 each filed changes to their intrastate tariffs, neither company has made
20 corresponding changes to the PIU sections of their interstate switched access
21 tariffs. As discussed previously, PIU provisions appear in both sets of tariffs.
22 This makes sense because PIUs are used to allocate traffic between the interstate
23 and intrastate jurisdictions for purposes of applying the correct charges. PIU
24 provisions in interstate access tariffs filed with the FCC authorize the use of PIU
25 procedures to determine the charges that will be applied to interstate calls. I am
26 informed that the Verizon ILECs have not implemented the billing procedures,

1 including the “PIU floors,” in their intrastate tariffs because they have not
2 included those provisions in their interstate tariffs. My understanding is that
3 intrastate tariff procedures such as those proposed by Qwest, standing alone,
4 without corresponding provisions in the carrier’s interstate access tariff, may not
5 be enforceable.

6
7 I also know from Verizon Business’s own experience that neither BellSouth nor
8 Verizon has billed our company under the procedures Qwest cites. So, it is not
9 correct that these local exchange carriers “impose[] PIU floors” in the two dozen
10 states alleged by Mr. Easton (at page 9). None of the other AT&T ILEC
11 affiliates, including SBC and Ameritech, have made similar tariff filings, at either
12 the state or federal level. I do not know for certain, but can only surmise that,
13 subsequent to BellSouth’s acquisition by AT&T, AT&T decided not to implement
14 these business practices in the BellSouth states.

15
16 For these reasons, Qwest cannot justify its proposed tariff changes by claiming
17 that it is simply seeking to mimic what other carriers are already doing. Rather,
18 its own unique proposal must be evaluated on its own merits. I will next discuss
19 why Qwest’s specific proposal in Utah is not reasonable or justified.

20
21 **Q. DO YOU AGREE THAT QWEST HAS ESTABLISHED THE FLOOR AT**
22 **AN APPROPRIATE LEVEL?**

23
24 A. No, I do not. Qwest changed its original proposal and lowered the proposed floor
25 from 7 percent to 5 percent, but did not provide any explanation for the change.

1 Lowering the floor would subject more of an IXC's so-called "unidentified"
2 traffic to higher intrastate rates. As a result, the revised proposal would subject
3 access customers to higher costs. Particularly in light of this vacillation, and
4 especially given the very low, inflexible benchmark that it now proposes (5
5 percent overall, with no possible upward adjustment), Qwest bears a burden of
6 justifying that benchmark. But Qwest has failed to provide adequate justification
7 for the level it proposes.

8
9 **Q. HAS QWEST DEMONSTRATED WHY THE PROPOSED 5 PERCENT**
10 **FLOOR IS REASONABLE?**

11
12 A. No, it has not. To the extent Mr. Easton offers any justification for a specific
13 "floor" in Utah, his testimony provides greater support for the original 7% figure
14 proposed by Qwest than for any lower level. *See* Confidential Exhibit WRE-1.2
15 (line labeled "UT Total"). Mr. Easton's testimony refers to some Qwest traffic
16 studies (at page 7), but the results he relies on are region-wide figures, which are
17 different than the Utah-specific usage data shown on his Confidential Exhibit
18 WRE-1.2 (Compare lines labeled "UT Total" and "Grand Total"). If the results
19 of these traffic studies are to be relied on at all, only the Utah-specific usage
20 should be considered.

21
22 There are additional problems with Qwest's methodology. To calculate the floor,
23 Qwest divided the amount of jurisdictionally "unidentified" traffic by the total
24 minutes of use. This formula merely produces an arithmetic average. According
25 to Mr. Easton (at page 7), Qwest then excluded traffic from carriers that have
26 more than 10 percent unidentified traffic, which had the result of reducing the

1 figure to a level below the calculated average. Rather than throwing out data at
2 both extremes, Qwest only excluded traffic volumes at the high end, but did not
3 exclude any carriers that have low amounts of unidentified traffic. As the largest
4 carrier in Utah, it is reasonable to assume that Qwest and its affiliates account for
5 a substantial amount of FGD-terminated traffic. Moreover, Qwest has asserted
6 that “100 percent” of its IXC-bound traffic contains adequate identifying
7 information. (Easton Testimony at 4). By including its own traffic volumes in
8 the “Total MOU,” and thereby enlarging the denominator in the equation
9 (unidentified MOU divided by total MOU), Qwest’s approach likely skewed the
10 calculated figure in a lower direction.

11
12 As stated above, Qwest set the floor by calculating an arithmetic average and then
13 revising the figure downward. However, an average, by itself, does not indicate
14 that the mid-point is reasonable; it is simply an average. By definition, there will
15 always be some that are above the average (regardless of what is being measured)
16 and others that are below it. That does not signify that those that are above the
17 average are somehow suspect. Qwest provided no qualitative analysis to show
18 that an amount above the calculated figure is, in fact, improper, inappropriate or
19 unreasonable, and should be singled out for special consideration under its tariff.
20 Qwest seeks to impose higher intrastate access rates on traffic only because it
21 exceeds an average amount, but the methodology it used to justify this proposal is
22 completely arbitrary. Moreover, having claimed that the proposed tariff changes
23 are needed to combat what Qwest considers “abnormally high amounts” of

1 unidentified traffic (Easton Testimony at 6), it is not reasonable to establish a
2 solution that does not directly target those “abnormal” levels, but instead is based
3 on a downwardly-biased arithmetic “average” of traffic that is carried by all other
4 carriers. In other words, the solution is not directly aimed at addressing the
5 perceived problem, and instead unfairly disadvantages other carriers that happen
6 to be above the arithmetic average.

7
8 Establishing a tariff structure in which a higher rate will be imposed based on a
9 statistical “average” is not reasonable. The Commission should not approve
10 Qwest’s proposed price floor based on the methodology it used.

11
12 **Q. DOES THE PROPOSED DISPUTE RESOLUTION LANGUAGE**
13 **REFERENCED ON PAGE 10 OF MR. EASTON’S TESTIMONY**
14 **ALLEVIATE THE CONCERNS YOU HAVE EXPRESSED?**
15

16 A. No. A dispute resolution process is obviously necessary, and carriers typically
17 include them in their tariffs. However, in the context of Qwest’s new tariff
18 proposal, the process it proposes may not prove particularly helpful. As I have
19 explained, a fundamental problem with the proposed tariff is that Qwest is trying
20 to establish an arbitrary threshold above which it would charge intrastate access
21 rates on what could be a substantial amount of international calls that originate
22 outside of the NANP area. Rather than create a process for disputing bills after
23 they are rendered and paid, it would be more efficient and useful to fix obvious
24 foreseeable problems in advance. Verizon Business is more than willing to work
25 with Qwest to establish such a process. If Qwest implements the type of process I

1 described earlier to address the existence of non-NANP originated international
2 traffic, those calls would never be included as so-called “unidentified” traffic in
3 the calculation of traffic that exceeds the “floor” and they would not improperly
4 be billed intrastate access charges. Eliminating the problem up front would avoid
5 the need to pursue dispute resolution after-the-fact. Creating a dispute resolution
6 process will not solve the underlying problems.

7
8 In addition, the dispute resolution process contemplated would be long and
9 complicated. If Qwest improperly imposes intrastate access rates on legitimate
10 non-NANPA originated international traffic, the IXC would first have to pay the
11 amounts, then initiate a dispute, ask Qwest to provide backup documentation, and
12 then negotiate corrected billings, before it eventually receives a credit or refunds
13 of amounts that it should not have had to pay in the first place. While Qwest
14 should bear the burden of showing that it is properly jurisdictionalizing and rating
15 calls, in practice, the dispute process can shift that burden to the access customer,
16 as Qwest may decide not to issue credits or refunds until it agrees that the dispute
17 is valid. Moreover, the type of analysis contemplated – the production of backup
18 documentation that proves how Qwest evaluated the traffic and calculated the
19 amounts that exceeded the floor – is precisely the type of analysis that should take
20 place *before* Qwest attempts to impose intrastate access charges on the
21 international calls I have discussed.

22
23 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

24 A. Yes.