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March 17, 2005

Frances Nichols Anglin
Oregon Public Utility Commission
550 Capitol St., NE
Suite 215
Salem, OR 97301

Re: UM 1140

Dear Ms. Nichols Anglin:

Enclosed for filing please find an original and (5) copies of Qwest Corporation's Opening Post-Hearing Brief, along with a certificate of service.

If you have any question, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in black ink that reads "Carla". The signature is written in a cursive, flowing style.

Carla M. Butler

CMB:

Enclosure

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1140

In the Matter of Beaver Creek Cooperative
Telephone Company Request to Consolidate the
Beavercreek Rate Center with the Clackamas
Rate Center

QWEST CORPORATION'S OPENING
POST-HEARING BRIEF

Pursuant to the schedule agreed upon by the parties at the January 27, 2005 evidentiary hearing, as modified by Administrative Law Judge Sam Petrillo on March 14, 2005, Qwest Corporation ("Qwest") hereby submits its Opening Post-hearing Brief.

INTRODUCTION AND SUMMARY

Beaver Creek's request for consolidation of the Clackamas and Beavercreek rate centers is simply not necessary or advisable, and thus the Commission should deny Beaver Creek's petition. Rate center consolidation is not necessary here because such consolidation has been implemented in the past only where there have been telephone number resource or conservation issues or concerns. Here, however, the undisputed evidence, including Beaver Creek's own admissions, is that there are currently no telephone number resource or conservation issues or concerns in the Clackamas or Beavercreek rate centers. Thus, the Commission should not consolidate these rate centers unless and until it is necessary because of a potential telephone number exhaustion concern (which clearly does not exist today).

In addition, although Beaver Creek argues that consolidation of these two rate centers "might increase competition," such consolidation would not have any appreciable impact on competition, especially because there are no current number conservation issues in the first place. Even the FCC's own general statements regarding number conservation issues and their potential impact on competition have been in the context of number conservation concerns, and were at a time when the country was experiencing those concerns. Finally, rate center

consolidation here would have potentially adverse impacts on telecommunications traffic routing and identification, telephone number assignment, and inter-carrier compensation between Qwest and Beaver Creek.

In short, rate center consolidation here is essentially a solution looking for a problem. Accordingly, Qwest respectfully submits that the Commission should deny Beaver Creek's petition, and further submits that the Commission should not consider any such petition *unless and until* there are current telephone number conservation concerns in these rate centers.

PERTINENT PROCEDURAL HISTORY

On March 25, 2004, Beaver Creek submitted a letter to the Commission requesting the consolidation of the Beavercreek rate center with the Clackamas rate center. On July 28, 2004, Administrative Law Judge Sam Petrillo scheduled a prehearing conference for August 11, 2004, and on August 10, 2004, Qwest filed a motion to close the docket. On August 13, 2004, after the prehearing conference, Beaver Creek filed a formal petition for rate center consolidation, and thereafter filed a statement of additional authority for its petition on August 25, 2004. Beaver Creek also opposed Qwest's motion to close the docket on August 27, 2004. Qwest then filed a reply on its motion to close the docket on September 2, 2004, and responded to Beaver Creek's statement of authority on September 3, 2004.

Thereafter, the parties submitted their proposed Issues Lists in October 2004, and the Administrative Law Judge issued the final Issues List on or about October 25, 2004. On December 1, 2004, Beaver Creek filed its opening testimony of Tom Linstrom and David Warner (Exhibits ("Exs.") Beaver Creek/1 and Beaver Creek/4) and their exhibits (Exs. Beaver Creek/2 and Beaver Creek/3). On January 6, 2005, Qwest filed its reply testimony of Don Mason, Michael Whaley, Philip Linse and Nancy Batz (Exs. Qwest/1 through Qwest/4) and their exhibits (Exs. Qwest/5 and Qwest/6). The Administrative Law Judge then held an evidentiary hearing on January 27, 2005.

STATEMENT OF RELEVANT FACTS

A. Qwest's and Beaver Creek's business relationships and compensation arrangements

Qwest has a business relationship with Beaver Creek under two different arrangements. One is based on Beaver Creek's incumbent local exchange company (ILEC) operations and status, and the other is based on its competitive (CLEC) operations and status. (Qwest/1, Mason/3-4.) Beaver Creek's ILEC operations have historically been governed by tariffs and Commission orders that regulate how traffic is exchanged between its ILEC operations in its Beaver Creek exchange (which is in the Beaver Creek rate center) and Qwest in its Oregon City exchange, and how compensation is handled for the non-competitive traffic generated from each ILEC's respective franchise area. (Qwest/1, Mason/4.) However, Beaver Creek's CLEC operations, which provide competitive services in Qwest's franchise area in the Oregon City exchange (which is part of the Clackamas rate center), are governed by an interconnection agreement between the two parties which establishes a different set of guidelines between the two companies.¹ The terms of this interconnection agreement are similar to the arrangement that Qwest has established with some other CLECs who compete with Qwest. (Id.)

With respect to its telephone numbering assignments, Beaver Creek uses the 503/632 NPA/NXX for its ILEC operations in the Beaver Creek exchange (and Beaver Creek rate center), and the 503/518 NPA/NXX for its CLEC operations in the Oregon City exchange (in the Clackamas rate center). (Qwest/4, Batz/6.)² If the Commission were to consolidate the

¹ See docket ARB 365, Order Nos. 02-148 (Final Arbitration Order), 02-367 (Application for Reconsideration Denied) and 02-724 (Executed Interconnection Agreement Approved). In Order No. 02-724, the Commission approved this agreement and found the agreement "comports with the requirements of the (Federal) Act, the [FCC] rules where applicable, and relevant state law and regulations." See Order No. 02-724, p. 1. (Qwest/1, Mason/4.)

² An NXX is a central office code that specifies the central office serving that telephone number, and is signified by the first three digits of a seven-digit telephone number. For example, the NXX or central office code for the Commission's offices is 378, and the NPA/NXX (NPA being the area code) is 503/378. (Qwest/2, Whaley/3, fn. 1.)

Beavercreek and Clackamas rate centers, and thus were to permit Beaver Creek to utilize its 503/518 and 503/632 prefixes throughout the consolidated rate center (i.e., the prefixes were allowed to be “commingled”), Qwest would not be able to readily “distinguish” the traffic originating from or terminating to Beaver Creek’s CLEC operations from the traffic originating from or terminating to Beaver Creek’s ILEC operations based on the prefix alone. (Id.)

It is possible today for Qwest to distinguish the two types of traffic (ILEC and CLEC traffic) that Beaver Creek exchanges with Qwest. For example, assuming that Beaver Creek properly assigns its telephone numbers within existing rate centers, traffic originating from or terminating to a 503/518 prefix (or NPA/NXX) is associated with Beaver Creek’s CLEC operations, and traffic originating from or terminating to a 503/632 prefix (NPA/NXX) is associated with Beaver Creek’s ILEC operations. One reason that it is important for Qwest to be able to distinguish between the two types of traffic is that the compensation arrangements for local and/or Extended Area Service (EAS) traffic differ for traffic that is exchanged between Qwest and Beaver Creek’s ILEC operations as compared to traffic that is exchanged between Qwest and Beaver Creek’s CLEC operations. (Qwest/4, Batz/6-7.)

The local/EAS traffic that the parties exchange between Beaver Creek’s CLEC operations and Qwest is governed by the parties’ interconnection agreement (§ 7.3.4.1.1), which provides:

“The per minute of use call termination rates as described in Exhibit A of this Agreement will apply reciprocally for Exchange Service (EAS/Local) traffic terminated at a Qwest or CLEC end office.” (Qwest/4, Batz/7.)³

If Beaver Creek’s CLEC traffic were to be routed on facilities that are distinct from the facilities carrying Beaver Creek’s ILEC traffic (which is feasible today due to the distinct NPA/NXXs that

³ The current non-Internet Service Provider (ISP) bound end office call terminating rate for exchange service (EAS/Local) traffic is \$0.00133 per minute of use. (Qwest/4, Batz/7.)

are assigned to Beaver Creek's ILEC vs. CLEC operations), Qwest could measure Beaver Creek's CLEC traffic to determine the appropriate compensation due to or from Beaver Creek. (Qwest/4, Batz/7.) However, if the rate centers were to be consolidated and Beaver Creek were able to use its 503/518 and 503/632 prefixes for both its ILEC and CLEC operations combined, Qwest would not be able to route traffic to Beaver Creek's CLEC operations versus its ILEC operations over distinct facilities based on the NPA/NXX alone. The current compensation arrangement for EAS traffic exchanged between Qwest and Beaver Creek's ILEC operations, however, is a "bill and keep" arrangement (i.e., neither Qwest nor Beaver Creek bills the other termination charges for EAS traffic that originates by the other party). (Qwest/4, Batz/7.)⁴

B. Rate center consolidation in general

The FCC has described rate center consolidation as follows:

Rate center consolidation is the combining or aggregating of several existing rate centers into fewer rate centers. Rate center consolidation serves as a numbering optimization measure by enabling carriers to use fewer NXX codes to provide service throughout a region, thereby reducing the demand for NXX codes, improving number utilization, and prolonging the life of an area code. See *Notice of Proposed Rulemaking*, FCC docket 99-122, ¶ 113. (Qwest/2, Whaley/3.)

Normally, rate center consolidation involves creating larger geographic areas that have a common local calling area, in which individual NXX codes can be used to serve the entire expanded area. Consolidating or combining existing rate centers reduces the number of NXX codes that new entrants or carriers (particularly CLECs) will need in order to establish their competitive footprint. (Qwest/2, Whaley/3-4.)

⁴ The Commission first established this "bill and keep" arrangement in its Order No. 89-815 in docket UM 189. Also in 1989, Qwest and Beaver Creek (its ILEC operations) entered into an "Extended Area Service (EAS) Compensation Agreement," which expired on June 30, 1997. Since that time, the parties have exchanged EAS traffic (between Qwest and Beaver Creek's ILEC operations) on a bill and keep basis. (Qwest/4, Batz/7-8.)

Further, as stated above, rate center consolidation serves as a valuable numbering optimization or number conservation measure. The FCC has stated that rate center consolidation may be one of several numbering optimization or number conservation measures that can be employed in order to optimize or conserve North American telephone numbering resources. Thus, in order to consider whether or not to implement a number conservation measure like rate center consolidation, there first should be a determination whether there is in fact a numbering optimization or number conservation issue (such as a telephone number exhaust concern) in the rate centers being considered for consolidation. In other words, the Commission should first determine whether there is a real need to combine rate centers to conserve telephone numbers, and if so, then determine to what extent numbers would be conserved if the rate centers were to be consolidated (or whether other number conservation measures would be more appropriate). (Qwest/2, Whaley/4, 9-10.) However, to Qwest's knowledge, the FCC has not considered the implementation of rate center consolidation when there has not been a numbering optimization or number conservation concern in the first place. (Qwest/2, Whaley/5-7; Transcript ("Tr."), p. 45.)

C. The status of number conservation in the applicable rate centers

Based on the evidence in the record, including Beaver Creek's own testimony and data responses, there is *not* currently a need for number conservation in the Clackamas and Beaver Creek rate centers. (See e.g., Qwest/2, Whaley/7-8; Qwest/1, Mason/3; (Qwest/4, Batz/3; Qwest/5, Batz/2-3; Qwest/8 (response no. 9 (Confidential)); Qwest/9 (response no. 4 and Attachment A (Confidential)); Beaver Creek/1, Linstrom/4; Tr., pp 12-17 (Confidential).) There is also not a need for unusual or unique approaches to number conservation when there is a reasonable length of time before telephone numbers are projected to be exhausted. For example, in the geographic area at issue, the North American Numbering Plan Administrator (NANPA) has estimated that there will not

be any exhaust of telephone numbers in the 503 area code until approximately 2011; NANPA has also estimated that there will not be any exhaust for the 971 area code until approximately 2026. In addition, this Commission previously issued an order in 1999 to “overlay” the new 971 area code with the original 503 area code. (See Order No 99-286 in docket UM 924.) Accordingly, there is currently no jeopardy occurring in either of the 503 or 971 Oregon area codes. (Qwest/2, Whaley/8.)

Even if it were to be undertaken, the consolidation of the Beavercreek and Clackamas rate centers would not result in any significant number conservation. (Qwest/2, Whaley/8-9.) There are also other measures (other than rate center consolidation) that would result in number conservation if it were needed, such as thousands-block number pooling and sequential number assignment. Neither thousands-block numbering pooling nor sequential number assignment have been undertaken in the geographic areas at issue. (Qwest/2, Whaley/9-10.)

Finally, rate center consolidation here would likely have potentially adverse impacts on the routing of telecommunications traffic (such as confounding Qwest’s ability to route traffic based on the NPA/NXX and/or causing expensive (and discriminatory) single-company solutions), as well as potentially adverse impacts on telephone number assignments. Rate center consolidation would have potentially adverse impacts on the interconnection relationships between Qwest and Beaver Creek’s CLEC operations, competitive traffic routing and recording, and compensation arrangements between Qwest and Beaver Creek’s CLEC operations. (Qwest/4, Batz/6-7; Qwest/3, Linse/3-7.)

ARGUMENT

I. There is no number conservation need for rate center consolidation here

The Commission should deny Beaver Creek’s rate center consolidation petition at this time because, as the undisputed facts in the record show, there is no number conservation need for rate center consolidation at the present time. Moreover, as stated, rate center consolidation has only been used in number conservation situations. Here, however, there are *no number*

conservation issues in these rate centers, and indeed, Beaver Creek does not ever advocate there are any such concerns. The evidence here shows that there are no such concerns, and on that basis alone, the Commission should deny Beaver Creek's petition.

A. Rate center consolidation has only been used in number conservation situations

The FCC has not considered the implementation of rate center consolidation when there has not been a numbering optimization or number conservation concern in the first place.

Although the FCC has permitted state commissions to implement rate center consolidation, when and where it is appropriate (i.e., when there has been a numbering optimization or number conservation issue), to Qwest's knowledge, rate center consolidation has always been implemented in the context of telephone numbering concerns. (Qwest/2, Whaley/5-7; Tr., p. 45.) In fact, all of the relevant FCC orders on telephone numbering issues that Beaver Creek has cited in support of its request for rate center consolidation have been in the context of telephone number conservation or optimization concerns. (Qwest/2, Whaley/5-7; see also Qwest's Response to Beaver Creek's Statement of Additional Authority (September 3, 2004).)

For example, in the FCC's *Report and Order and Further Notice of Proposed Rulemaking* in its Number Resource Optimization docket (No. 99-200), 15 FCC Rcd. 7574 (2000), there were only three references to "rate center consolidation." Specifically, there was a reference that the FCC does "not address issues raised ... [about] ... rate center consolidation" (§ 9), as well as references merely about information on which to evaluate rate center consolidation (§ 105), and the FCC declining to further delay national *number pooling* until states have implemented other number conservation measures (which include rate center consolidation) (§ 128). (See Qwest/2, Whaley/6.)

Likewise, in FCC Order No. 00-1616 (commonly referred to as the *Delegation Order*), which pertained to the petitions of 15 different state commissions (including this Commission) for additional delegated authority to implement number conservation measures in general, there

were merely two references to rate center consolidation (¶¶ 3, 59), both in response to the Utah Commission's request for authority to institute rate center consolidation. The FCC simply reiterated the fact that the FCC has given state commissions authority to consolidate rate centers (which Qwest does not dispute). (See also Qwest/2, Whaley/6.)

In the FCC's *Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking*, FCC 00-429 the FCC again raised the issue of rate center consolidation. In paragraph 148, the FCC stated it "was mindful that rate center consolidation may be a difficult option for many states and carriers...because of the historic connection between rate centers and the billing, as well as routing of calls." This is an issue that Qwest (through the testimony of Mr. Linse and Ms. Batz) has addressed. (See also Qwest/2, Whaley/6.)

Finally, in the FCC's *Third Report and Order and Second Order on Reconsideration*, FCC 01-362 (released December 28, 2001), in CC Docket Nos. 99-200, 96-98 and 95-116, the FCC again addressed number conservation measures generally, such as thousands-block number pooling (TBNP), area code "overlays" and other numbering resource optimization measures. There were only two references to rate center consolidation, and both of them merely stated that rate center consolidation is one of various telephone numbering resource optimization measures. (See also Qwest/2, Whaley/6.)

In short, to Qwest's knowledge, the FCC has not addressed rate center consolidation in situations other than those dealing with telephone number optimization or conservation concerns. Thus, the Commission should be wary of, and indeed should deny, any request for rate center consolidation unless and until there is a number conservation concern. Accordingly, unless Beaver Creek can show there is a genuine, existing number conservation issue in the Beaver Creek rate center, Qwest respectfully submits that the Commission should deny Beaver Creek's petition.

B. There is no current need for number conservation in these rate centers

Number conservation in general is (and should continue to be) an ongoing effort by all telecommunications carriers and regulators, and rate center consolidation itself dates back to the FCC's recognition in the mid- to late-1990s of the potential exhaust of 10-digit telephone numbers. Since then, the FCC has implemented several number conservation measures, including TBNP and other rules, which dictate when a carrier can obtain telephone numbers, and how many telephone numbers a carrier can obtain. (Qwest/2, Whaley/7-8.)

As the undisputed record evidence shows, there is no current need for number conservation in the Clackamas and Beaver Creek rate centers. Nor is there any present need for any unusual or unique approaches to number conservation, as there is a reasonable length of time before telephone numbers in the 503/971 areas in Oregon are exhausted. In fact, the North American Numbering Plan Administrator (NANPA) has estimated that there will not be any exhaust of telephone numbers in the 503 area code until approximately **2011**. NANPA has also estimated that there will not be any exhaust for the 971 area code until approximately **2026**. (Qwest/2, Whaley/8.) Thus, there is currently no number exhaust jeopardy occurring for either of these Oregon area codes. Moreover, this Commission previously solved any potential number exhaust problem with its 1999 order to "overlay" the new 971 area code with the original 503 area code. See Order No 99-286 in docket UM 924. (See also Qwest/2, Whaley/8.)

Further still, even if it were to be implemented, the consolidation of the Beaver Creek and Clackamas rate centers that Beaver Creek requests would not result in any significant number conservation in any event. To have any real impact on number conservation, full codes or large quantities of thousands blocks of numbers would have to be returned to NANPA or the Pooling Administrator (PA). Here, consolidating these two rate centers would have little or no effect. This is so because there are not enough telephone numbers that can be given back to NANPA or the PA to have much, if any, impact on the life of the area codes. (Qwest/2, Whaley/8-9.)

Rate center consolidation here also would not result in any significant extension of the life of these Oregon area codes. First, as stated, NANPA's published estimates of exhaustion of numbers show that there should not be any exhaust for the 503 area code until approximately 2011, and there should not be any exhaust for the 971 area code until approximately 2026. Thus, even if the Commission were to implement it, rate center consolidation would not have any significant impact on the life of the relevant area codes. As such, it does not appear that rate center consolidation would be necessary here, or that such consolidation would accomplish anything of significance. (Qwest/2, Whaley/9.)

Even Beaver Creek's own admissions show that, in its view, there will not be any potential exhaustion for at least [Confidential- xxxxxx] years. (Qwest/9 (response to data request no. 4 and Attachment A (Confidential)); Tr., pp. 13-15 (Confidential), 96.) Moreover, Qwest believes that Beaver Creek's projections are extremely speculative, and indeed, are belied by its own admissions. This is especially so given the relatively small number of 503/518 telephone numbers that Beaver Creek has needed to use thus far. (Qwest/4, Batz/3; Qwest/5 (responses to data requests nos. 7 and 8 (Confidential)).) For example, in the almost eight years since Beaver Creek has been certified as a CLEC, it has only needed [Confidential – XXX] 503/518 telephone numbers. (See Qwest/4, Batz/3; Qwest/9 (Beaver Creek response to Qwest data request no. 4, and Attachment A (Confidential)); Tr., pp 13-15 (Confidential), 96.)⁵ Clearly, even assuming that Beaver Creek's opinion of its need for more than [Confidential- XXXX] 503/518 telephone numbers in [Confidential- xxxxxxxx] years became reality, there is no such numbering concern today, by its own admission. Beaver Creek should be required to wait until there is a need for

⁵ As of January 2005, Beaver Creek's utilization of the 503/518 code (its line count) was [Confidential- XXX], not including official lines or lines reserved for testing. (Qwest/9 (response no. 4, and Attachment A (confidential)).)

additional numbering resources (such as when the utilization surpasses the 75% level as directed by the FCC) before it seeks additional numbering resources or such rate consolidation.⁶

Finally, there are measures other than rate center consolidation that would result in number conservation, if conservation were needed. For example, these other measures include number pooling, which allows carriers to return unused blocks of numbers, or lightly “contaminated” blocks (in which less than 10% of the available thousands block numbers are being used), back to the Pooling Administrator (PA) for assignment to other carriers. Number pooling also allows new carriers to obtain blocks of numbers in a rate center without having to obtain or open a full NXX code. (Qwest/2, Whaley/9.)⁷

Here, Beaver Creek has *not* engaged in number pooling. Although it has expressed a willingness to engage in number pooling, it has yet to do so. (Beaver Creek/1, Linstrom/11.) In fact, of the [Confidential- XXX] 503/518 telephone numbers that Beaver Creek has used out of the 503/518 NPA/NXX, only [Confidential- xxxx] of the 10 “thousands blocks” have been “contaminated” (meaning that these thousands blocks have more than 10%, or 100 numbers, of the thousand numbers available in use). (See Qwest/8 (Beaver Creek’s response to Qwest data request no. 9); Tr., pp. 15-17 (Confidential).) The Commission should therefore require Beaver Creek to engage in number pooling before it considers implementing rate center consolidation. Thereafter, if (and only if) number pooling does not address any valid number concerns that

⁶ The FCC rules regarding telephone number utilization rates (47 CFR 52.15(h)), which Beaver Creek clearly has not followed, state as follows:

(h) *National utilization threshold.* All applicants for growth numbering resources shall achieve a 60% utilization threshold, calculated in accordance with paragraph (g)(3)(ii) of this section, for the rate center in which they are requesting growth numbering resources. This 60% utilization threshold shall increase by 5% on June 30, 2002, and annually thereafter until the utilization threshold reaches 75%.

⁷ Qwest has already deployed this functionality in its switches in anticipation that pooling would be required in every switch in every rate center. Qwest is currently pooling in the Clackamas rate center, and has donated more than 125 thousands blocks for use by other carriers desiring to serve in the area. (Qwest/2, Whaley/9-10.)

Beaver Creek might have, and thereafter there develops a number conservation concern in the future, Beaver Creek could then seek rate center consolidation anew.

Finally, sequential number assignment is yet another number conservation measure that Beaver Creek can use.⁸ That is, Beaver Creek could *sequentially* assign telephone numbers to its customers from a thousands block (before opening another block). This measure would help to maintain the integrity of unused blocks, and the unused blocks could then be donated to the Pooling Administrator if Beaver Creek did not need them for the six months of inventory that carriers are allowed to maintain. (Qwest/2, Whaley/10.)⁹ However, Beaver Creek has admitted that it does not engage in sequential number assignment. (Tr., p. 17.) Again, the Commission should first require Beaver Creek to engage in sequential number assignment before the

⁸ The FCC rules regarding sequential number assignment (47 CFR 52.15(j)), which Beaver Creek clearly is not following, require as follows:

(j) *Sequential number assignment.*

(1) All service providers shall assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. This requirement shall apply to a service provider's existing numbering resources as well as any new numbering resources it obtains in the future.

(2) A service provider that opens an uncontaminated thousands-block prior to assigning all available telephone numbers within an opened thousands-block should be prepared to demonstrate to the state commission:

(i) A genuine request from a customer detailing the specific need for telephone numbers; and

(ii) The service provider's inability to meet the specific customer request for telephone numbers from the available numbers within the service provider's opened thousands-blocks.

(3) Upon a finding by a state commission that a service provider inappropriately assigned telephone numbers from an uncontaminated thousands-block, the NANPA or the Pooling Administrator shall suspend assignment or allocation of any additional numbering resources to that service provider in the applicable NPA until the service provider demonstrates that it does not have sufficient numbering resources to meet a specific customer request.

⁹ According to the FCC, a carrier should maintain only a maximum *six month inventory* of telephone numbers in order to meet its needs. Beaver Creek is not following these FCC rules. Specifically, 47 CFR 52.15(g)(3)(B)(iii) provides as follows:

All service providers shall maintain *no more than a six-month inventory* of telephone numbers in each rate center or service area in which it provides telecommunications service. (Emphasis added.)

Commission considers implementing rate center consolidation. Thereafter, if (and only if) sequential number assignment does not address any valid numbering concerns that Beaver Creek might have, and thereafter there develops a number conservation concern in the future, Beaver Creek could then seek rate center consolidation anew.

II. Rate center consolidation would not have any appreciable impact on competition

Another argument that Beaver Creek has made in support of rate center consolidation, apparently based on certain dicta in a couple of FCC orders on number conservation measures in general, is that the consolidation of the Clackamas and Beavercreek rate centers would “increase competition” in the Beavercreek exchange. However, although number conservation measures in general may theoretically increase competition where there are number conservation concerns (which does not exist here), consolidation of the Beavercreek and Clackamas rate centers would *not* result in any significant, beneficial impact on local competition here. (Qwest/4, Batz/2.)

First, as Qwest noted, there are currently fewer than [Confidential- XXXX] Beaver Creek ILEC working telephone numbers in use in the Beavercreek exchange, and fewer than [Confidential- XXX] Beaver Creek CLEC working telephone numbers in use in the Oregon City exchange. (Exs. Qwest/9, Attachment A (confidential) and Qwest/5, Batz/3 (Confidential); Tr., pp. 12-17 (Confidential).) Second, Beaver Creek argues that one benefit of the proposed rate center consolidation would be a new ability by Beaver Creek to assign telephone numbers from both the 503/518 and 503/632 prefixes in the event it were to choose to compete in more areas than the present Clackamas rate center. (Beaver Creek/1, Linstrom/5.)¹⁰ However, it is not apparent from the evidence in the record (see Qwest/5 (response nos. 7 and 8 (Confidential)));

¹⁰ This competition beyond the Oregon City exchange assumes that Beaver Creek obtains Commission approval of its application in docket CP 1242, which is currently suspended, to compete outside of the Oregon City exchange. (Qwest/4, Batz/3.)

Qwest/9; Qwest/8) that Beaver Creek has any pressing need for additional telephone numbers to serve new customers in the existing Clackamas rate center. (Qwest/4, Batz/3.)

It is also not apparent that competitors currently operating in the Clackamas rate center have any strong interest in competing in the Beavercreek rate center. For example, no telecommunications provider has requested thousands-block number pooling of the 503/632 prefix in the Beavercreek rate center. (See Qwest/6 (response no. 2).)¹¹ Nor has any wireline telecommunications provider requested negotiations with Beaver Creek's ILEC operations for an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996. (See Qwest/6 (response no. 1); see also Qwest/4, Batz/3-4.)¹²

It is, perhaps, not too surprising that competitors apparently have not found the Beavercreek rate center particularly attractive from a competitive standpoint. After all, the Beavercreek rate center is comprised largely of rural residential homes, including farmland, with little business development. The Beavercreek rate center also lies almost completely (if not completely) outside the current Portland metropolitan urban growth boundary, thus limiting future growth of high-density development. Presumably, these very characteristics of the Beavercreek exchange are what prompted Beaver Creek to expand its operations to provide service outside of the Beavercreek rate center, and into Qwest's neighboring Oregon City exchange, where there may be greater growth opportunities. (Qwest/4, Batz/4.)

¹¹ Indeed, only two wireless carriers have requested local number portability from Beaver Creek to date, and then, only on a limited basis. (See Qwest/4, Batz/3; Qwest/6 (response no. 3); Qwest/6A; Tr., pp. 92-93.)

¹² In fact, other than Beaver Creek itself, Beaver Creek identified only Qwest as a wireline local exchange provider operating in the Beavercreek exchange. (See Qwest/6 (response no. 4).) Although and longer formally designated as "the ILEC" in that area (since Qwest transferred the area to Beaver Creek in 1997), Qwest is authorized to operate, and continues to operate, a small portion of the Beavercreek exchange ("the subject territory"), as defined in Order No. 04-225 in docket UA 55, and Qwest does so as an ILEC. (Qwest/4, Batz/4; Tr., pp. 104-105.)

In short, even if there were number conservation issues here (which there are not), and even if in the absence of number conservation issues the Commission were to take into consideration the FCC dicta about possible number conservation impacts on competition, it is clear that a consolidation of the Clackamas and Beaver Creek rate centers would *not* have any appreciable impact on local competition there. The Commission should therefore reject Beaver Creek's argument about consolidation of the two rate centers in order to increase competition, and thus should deny Beaver Creek's petition.

III. Consolidation would cause routing, number assignment and compensation problems

Finally, apart from the lack of a number conservation concern, and the lack of any significant impact on competition if the Commission were to consolidate the rate centers, there would likely also be adverse impacts on the proper routing of traffic on the telecommunications network and on number assignment issues. There would also be potentially adverse impacts on the interconnection relationships between Qwest and Beaver Creek's CLEC operations, and on competitive traffic recording and compensation between Qwest and Beaver Creek's CLEC operations. These are yet other reasons why rate center consolidation should not be allowed here, and thus should be denied.

For example, if the Beaver Creek and Clackamas rate centers were to be consolidated, under current industry practices, Beaver Creek would presumably be able to assign its 503/518 CLEC prefix to its ILEC customers and/or its 503/632 ILEC prefix to its CLEC customers. Current ATIS (Alliance for Telecommunications Industry Solutions) Central Office (CO) Code (NXX) Assignment Guidelines operate under the assumption that "from a wireline perspective that CO codes/blocks allocated to a wireline service provider are to be utilized to provide service to a customer's premise physically located in the same rate center that the CO codes/blocks are

assigned.” (Qwest/4, Batz/5.)¹³ Thus, this presumed number assignment would eliminate Qwest’s mechanized ability to distinguish between Beaver Creek ILEC traffic and Beaver Creek CLEC traffic for compensation purposes.

In addition, a consolidation of the two rate centers would cause network routing concerns. For example, to properly route traffic to Beaver Creek’s ILEC and CLEC operations, respectively, Beaver Creek would need to establish specific routing instructions in the Local Exchange Routing Guide (LERG) that uniquely identifies each of Beaver Creek operations (i.e., its ILEC operations and its CLEC operations). These routing instructions would allow Qwest (and other carriers) to properly route traffic either to Beaver Creek’s ILEC operations or to its CLEC operations, as appropriate. The fact that the LERG has a field to populate the company type, and that Beaver Creek has chosen to represent its carrier information solely as an ILEC, has contributed to the adverse impact of any potential rate center consolidation. That is so because Beaver Creek currently uses only one Operating Company Number (OCN) in the LERG. (Tr., pp. 84-85; see also Qwest/7 (responses to nos. 1 and 2).) In fact, both the 503/632 and 503/518 NPA/NXXs in the LERG show that they are assigned to “Beaver Creek,” and Beaver Creek is identified only as an “ILEC,” which clearly is not accurate with respect to its 503/518 NPA/NXX. (Tr., pp. 84-85.)¹⁴ The instructions for populating information in the LERG clearly

¹³ Qwest notes that when the Commission granted Beaver Creek’s application to become a competitive provider in the Oregon City exchange in Order No. 96-248 in docket CP 131, the Commission adopted a general stipulation whereby Beaver Creek, the Applicant, “agrees to limit each of its NXX codes to a given exchange and establish rate centers in those exchanges that are proximate to the existing LEC rate centers.” (Qwest/4, Batz/5.) However, in or around 2000, one of the Commission’s certification conditions for CLECs was modified to limit each NXX code to an exchange or rate center, whichever is larger. (Qwest/4, Batz/5-6.)

¹⁴ Telcordia’s Business Integrated Routing/Rating Database System (BIRRDs) User Manual provides (at page 63) that for purposes of populating data in Telcordia’s LERG, carriers are required to populate the database NXX record (called an NXD) in “field 22” (“Company Type”) for each NXX. The categories for reporting are:

- 0= BOC Exchange Carrier
- 1= Independent Exchange Carriers (incumbent LEC)
- 2= Interexchange Carrier
- 3= Radio Common carrier

require the identification of company type. If there was not a need for this information, there would not be a field to populate the company type.

In addition to distinctive routing instructions, Beaver Creek would need to establish separate trunking for traffic destined to or from its CLEC versus ILEC operations. Separate trunking would allow Qwest to appropriately record and route traffic to the trunking of Beaver Creek's ILEC operations or to its CLEC operations. (Qwest/3, Linse/3-4.)¹⁵ Although separate trunking has recently been established between Beaver Creek and Qwest, this effort to segregate ILEC and CLEC traffic becomes blurred at best if rate center consolidation were to be allowed.

Finally, Qwest would have a technical problem *identifying, recording and segregating* the appropriate traffic if Beaver Creek were allowed to combine its CLEC traffic with its ILEC traffic on the same trunks. For example, if Beaver Creek were to deliver both ILEC and CLEC traffic over its ILEC trunking, Qwest would not be able to *identify, record and segregate* the local/EAS traffic that is routed to Qwest (and that is eligible for reciprocal compensation from Beaver Creek's CLEC operations) separately from the EAS traffic routed to Qwest by Beaver Creek's ILEC operations.¹⁶ This is so because use of common trunks (such as Beaver Creek's

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- 4= Cincinnati Bell or Southern New England Telephone
 - 5= Cellular Carrier
 - 7= Service Exchange Company, i.e. CLEC
 - 8= Personal Communications Services (PCS) Service Provider
 - 9= Service Provider (Miscellaneous Service)

For both the 503/632 and 503/518 NPA/NXXs, Beaver Creek identifies itself in the LERG database as a "Company Code Type 1" (ILEC). Beaver Creek does not reflect in the LERG that it is also a CLEC (Type 7).

¹⁵ As stated, Beaver Creek currently has both the 503/632 and 503/518 NPA/NXX codes assigned to Beaver Creek's ILEC operations. As a result, the only distinction that can be made between traffic exchanged with Beaver Creek's ILEC operations and traffic exchanged with Beaver Creek's CLEC operations is that the Beaver Creek NPA/NXXs are assigned to different rate centers. Therefore, consolidating the Beaver Creek and Clackamas rate centers would eliminate this distinction between Beaver Creek's ILEC operations and its CLEC operations for routing purposes. (Qwest/3, Linse/4.)

¹⁶ Qwest's recording capability only captures all traffic, and does not have the ability to separately identify ILEC traffic and CLEC traffic. (Qwest/3, Linse/7.)

ILEC trunks) for delivery of Beaver Creek's ILEC and CLEC traffic would not allow Qwest the capability to segregate the traffic. (Qwest/3, Linse/6.)¹⁷ Since Qwest has a bill and keep compensation arrangement with Beaver Creek's ILEC operations, and a reciprocal compensation arrangement with Beaver Creek's CLEC operations, Qwest would have no way of knowing which traffic would be subject to bill and keep traffic and which traffic would be eligible for reciprocal compensation. (Qwest/3, Linse/6.)

In short, consolidation of the Beavercreek and Clackamas rate centers would only serve to complicate, and not resolve, these issues. The proposed rate center consolidation would have only adverse impacts, without any beneficial impact on how Beaver Creek's ILEC or CLEC operations interconnect with Qwest. In fact, rate center consolidation would essentially eliminate Qwest's ability to distinguish between competitive and non-competitive traffic that is exchanged between Beaver Creek and Qwest, and would thereby negatively affect both traffic routing and inter-company compensation. (Qwest/3, Linse/7.) These are yet additional and important reasons why the Commission should deny Beaver Creek's petition for rate center consolidation.

CONCLUSION

For the reasons stated above, the Commission should deny Beaver Creek's petition for rate center consolidation, especially since there are no current number conservation issues. If a telephone number exhaustion jeopardy situation or other significant number conservation

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¹⁷ Although Beaver Creek has argued that "a trunk is a trunk" (Beaver Creek/1, Linstrom/12-13; Beaver Creek/4, Warner/2), Qwest would have to engage in manual processes, or develop or revise its existing systems, just for Beaver Creek, and thus Qwest would up end up doing for Beaver Creek what it does not do for any other CLEC.

concern arises, Beaver Creek could thereafter file a new petition at that time.

DATED: March 17, 2005.

Respectfully submitted,



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(Qwest/4, Batz/8-9; Tr., pp. 105-106, 103.) Clearly, this single-company solution would be both impractical and discriminatory against other carriers that have both ILEC and CLEC operations, and there is simply no basis for it.

CERTIFICATE OF SERVICE

UM 1140

I hereby certify that on the 17th day of March, 2005, I served the foregoing **QWEST CORPORATION'S OPENING POST-HEARING BRIEF** in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at their regular office address shown below, and deposited in the U.S. post office at Portland, Oregon.

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