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June 16, 2006

Annette Taylor
Oregon Public Utility Commission
550 Capitol St., NE
Suite 215
Salem, OR 97301

Re: UM 1251

Dear Ms. Taylor:

Enclosed for filing please find an original and (5) copies of Qwest Corporation's Reply Testimony. The Testimony is marked as follows:

Exhibit Qwest/13	Reply Testimony of Renee Albersheim
Exhibit Qwest/14	Reply Testimony of Robert Brigham
Exhibit Qwest/15	Reply Testimony of Rachel Torrence
Exhibit Qwest/16-Qwest/21	Exhibits to the Reply Testimony of Rachel Torrence
Exhibit Qwest/22	Reply Testimony of Teresa Million
Exhibit Qwest/23	Response to DR 01-025
Exhibit Qwest/24	Response to DR 01-029

Highly Confidential and *Confidential* Exhibits and Testimony pages are sealed in separate envelopes.

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

Sincerely,



Carla M. Butler

CMB:
Enclosures

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CERTIFICATE OF SERVICE

UM 1251

I hereby certify that on the 16th day of June 2006, I served the foregoing QWEST CORPORATION'S REPLY TESTIMONY OF RENEE ALBERSHEIM, ROBERT BRIGHAM, RACHEL TORRENCE and TERESA MILLION 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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DATED this 16th day of June, 2006.

QWEST CORPORATION



By: _____
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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1251**

In the Matter of)
COVAD COMMUNICATIONS COMPANY,)
ESCHELON TELECOM OF OREGON, INC.,)
INTEGRA TELECOM OF OREGON, INC.,)
MCLEODUSA TELECOMMUNICATIONS)
SERVICES, INC., and XO)
COMMUNICATIONS SERVICES, INC.)
Request for Commission Approval of Non-)
Impairment Wire Center List.)

**REPLY TESTIMONY OF
OF
RENÉE ALBERSHEIM
FOR
QWEST CORPORATION**

June 16, 2006

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1 **I. EXECUTIVE SUMMARY**

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

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II. IDENTIFICATION OF WITNESS

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

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

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. On April 21, 2006, I filed direct testimony in this proceeding.

III. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to the rebuttal testimony of Mr. Douglas Denney of Eschelon Telecom filed on behalf of the Joint CLECs. Specifically, I will discuss his statements with regard to the Joint CLECs' proposed requirements for the process of updating the list of "non-impaired" wire centers in the future pursuant to the Triennial Review Remand Order ("*TRRO*") and the FCC's associated implementation rules.

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

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

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

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

12 A. No. Qwest does not believe that this process should be used as a means to delay the
13 appropriate designation of new wire centers as non-impaired. Therefore, Qwest would
14 ask that any such process be expedited, and that the designation of new non-impaired
15 wire centers be effective 30 days following Qwest’s initial notification to CLECs and the
16 Commission that the impairment status for that wire center has changed. If a dispute to
17 the change in impairment status for that wire center were to be raised and a proceeding is
18 subsequently established to resolve the dispute, Qwest would not implement a change in
19 rates until the proceeding is complete; however, Qwest believes it should have the right
20 to back bill CLECs to the effective date if the change in wire center status is subsequently

1 approved.¹ Qwest also believes that the result of the docket should be *binding* upon all
2 parties.

3 **Q. MR. DENNEY STATES AT PAGE 41 OF HIS REBUTTAL THAT “THIS**
4 **PROCESS NEED NOT BE LENGTHY FOR A NUMBER OF REASONS. FIRST,**
5 **ADDITIONS TO THE WIRE CENTER LIST ARE ALMOST CERTAINLY**
6 **LIKELY TO CONTAIN FEWER WIRE CENTERS THAN THE WIRE CENTERS**
7 **BEING INVESTIGATED IN QWEST’S INITIAL FILING. SECOND, THE**
8 **ISSUES IN THE INVESTIGATION TO UPDATE THE WIRE CENTER LIST**
9 **WILL BE NARROW.” DOES QWEST AGREE WITH THESE STATEMENTS?**

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

12 **Q. MR. DENNEY SUGGESTS AT PAGE 34 OF HIS REBUTTAL TESTIMONY**
13 **THAT QWEST INTENDS TO SUBMIT THE NAME OF A WIRE CENTER, AND**
14 **NOTHING ELSE, TO SUPPORT A CLAIM OF NON-IMPAIRMENT. IS MR.**
15 **DENNEY CORRECT?**

16 A. No, not at all. Qwest will include supporting data to verify that a new wire center is non-
17 impaired in accordance with the FCC methodology as this Commission has ordered.
18 Qwest has no intention of making a claim of non-impairment without data to support
19 such a claim. Qwest recognizes that some of the supporting data will be highly-
20 confidential CLEC-specific data. To avoid the possibility of delay in the CLECs’ ability

¹ The FCC anticipated such a “true-up” or back-billing procedure in the *TRRO*. See e.g., *TRRO*, at fns. 408, 524, 630.

1 to review this data, Qwest proposes that this Commission establish a standing non-
2 disclosure agreement or protective order, much like the protective order established for
3 this proceeding. Such an agreement would allow CLECs plenty of time to review the
4 supporting data, and decide whether or not they wish to dispute the addition of a new
5 wire center to the list of non-impaired wire centers.

6 **Q. WHAT DATA WILL QWEST INCLUDE IN A FILING TO ADD A WIRE**
7 **CENTER TO THE LIST OF NON-IMPAIRED WIRE CENTERS?**

8 A. Qwest will provide, under the appropriate protective order, sufficient detail to enable the
9 CLECs to validate the access line counts and fiber-based collocator counts used in the
10 future non-impairment analysis. To establish that a wire center has met the business line
11 threshold, Qwest will include, for each wire center:

- 12 • The latest available ARMIS 43-08 line counts, based on official ARMIS data on file
13 with the FCC.
- 14 • Qwest adjustments to ARMIS 43-08 data to derive 64-kbps equivalents for high-
15 capacity (e.g., DS1 and DS3) services, such as ISDN-PRI.
- 16 • Total wholesale UNE loops (e.g., UNE-L and EEL), shown at the aggregated level
17 for the wire center(s) at issue, and by capacity (voice-grade, DS1, DS3). This
18 information will also be provided on a CLEC-specific basis to each CLEC, under
19 appropriate confidentiality protections, to enable the CLEC to verify its own counts
20 for these services.

- 1 • Qwest calculations to derive 64-kbps equivalents for high-capacity (e.g., DS1 and
2 DS3) loops.
- 3 • UNE-P/QPP lines shown at the aggregated level for the wire center(s) at issue and by
4 service type (e.g. QPP-PBX, QPP-ISDN, etc.). QPP lines will also be provided on a
5 CLEC-specific basis to each CLEC, under appropriate confidentiality protections, to
6 enable the CLEC to verify its own counts for these services. UNE-P counts are
7 subject to the limitations discussed in Mr. Brigham’s testimony.

8 To establish that a wire center has met the fiber-based collocater threshold, Qwest will
9 include, subject to appropriate confidentiality protections, the following:

- 10 • Names of the fiber-based collocators
- 11 • Physical verification information

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

14 **Q. MR. DENNEY STATES AT PAGE 36 OF HIS REBUTTAL TESTIMONY THAT**
15 **“QWEST’S PROPOSAL TO *BLOCK* CLEC ORDERS IN OFFICES QWEST**
16 **DEEMS AS ‘NON-IMPAIRED’ REITERATES THE IMPORTANCE OF HAVING**
17 **THE COMMISSION APPROVE ANY ADDITIONS TO QWEST’S WIRE**
18 **CENTER LIST.” (EMPHASIS ADDED.) DOES MR. DENNEY ACCURATELY**
19 **DESCRIBE QWEST’S PROPOSAL?**

20 **A.** No. While Qwest agrees that it is important to have this Commission approve additions
21 or updates to Qwest’s non-impaired wire center list, Qwest has *not* stated that it would

1 “block” orders absent such Commission approval. In fact, Qwest would not block orders
2 for UNEs in a particular wire center unless there are no objections to the addition of that
3 wire center to the non-impaired list, or until the Commission has formally deemed and
4 approved that wire center as being non-impaired. Thus, Qwest is in agreement with the
5 CLECs and Mr. Denney (at page 43 of his rebuttal testimony) that “order rejection should
6 be limited to wire centers on a Commission-approved list of non-impaired wire centers.”

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

9 A. Yes. Mr. Denney states at page 44 of his rebuttal testimony that “[t]he terms and
10 procedures for rejecting orders must be predetermined and agreed to by CLECs.” Qwest
11 does not agree with this proposition, and Mr. Denney takes this issue too far. All that the
12 parties must agree to is when orders may be rejected; and the parties are already in
13 agreement that Qwest will not block orders for UNEs until a particular wire center is on a
14 Commission-approved list of non-impaired wire centers.

15 **Q. MR. DENNEY STATES AT PAGE 41 OF HIS REBUTTAL TESTIMONY THAT**
16 **QWEST ATTEMPTED TO IMPLEMENT A “CHANGE REQUEST” IN THE**
17 **CHANGE MANAGEMENT PROCESS (“CMP”) THAT WOULD “BLOCK CLEC**
18 **ORDERS FOR UNEs IN WIRE CENTERS THAT QWEST UNILATERALLY**
19 **BELIEVES ARE NOT IMPAIRED.” IS THAT AN ACCURATE**
20 **REPRESENTATION OF QWEST’S CHANGE REQUEST?**

21 A. Absolutely not. First, as stated in the Change Request, which Mr. Denney attached to his
22 rebuttal testimony as Exhibit Joint CLECs/9, the Description of Change section of the

1 Change Request states: “Due to the volume of customers that have opted into the *TRRO*
2 Amendment, Qwest needs to implement edits in those states, for those customers, where
3 a *TRRO* has been filed, in their states.”

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

11 **Q. MR. DENNEY STATES ON PAGE 42 OF HIS REBUTTAL TESTIMONY THAT**
12 **ILECs MUST IMMEDIATELY PROCESS ORDERS FOR UNEs FROM A CLEC**
13 **WHO CERTIFIES THAT IT HAS UNDERTAKEN A “REASONABLY**
14 **DILIGENT INQUIRY, AND, BASED ON THAT INQUIREY, SELF-CERTIFY**
15 **[SIC] THAT, TO THE BEST OF ITS KNOWLEDGE,” IT IS ENTITLED TO**
16 **OBTAIN THE UNE. HOW DOES QWEST RESPOND TO THIS STATEMENT?**

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

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

3 234. We recognize that our rules governing access to dedicated transport and
4 high-capacity loops evaluate impairment based upon objective and readily
5 obtainable facts, such as the number of business lines or the number of facilities-
6 based competitors in a particular market. We therefore hold that to submit an
7 order to obtain a high-capacity loop or transport UNE, a requesting carrier must
8 undertake a reasonably diligent inquiry and, based on that inquiry, self-certify
9 that, to the best of its knowledge, its request is consistent with the requirements
10 discussed in parts IV, V, and VI above and that it is therefore entitled to
11 unbundled access to the particular network elements sought pursuant to section
12 251(c)(3). Upon receiving a request for access to a dedicated transport or high-
13 capacity loop UNE that indicates that the UNE meets the relevant factual criteria
14 discussed in sections V and VI above, the incumbent LEC must immediately
15 process the request. To the extent that an incumbent LEC seeks to challenge any
16 such UNEs, it subsequently can raise that issue through the dispute resolution
17 procedures provided for in its interconnection agreements. In other words, the
18 incumbent LEC must provision the UNE and subsequently bring any dispute
19 regarding access to that UNE before a state commission or other appropriate
20 authority.

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

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

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

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

8 **Q. SO, DOES QWEST INTEND TO BLOCK CLEC ORDERS IN A WIRE CENTER**
9 **THAT HAS NOT BEEN DEEMED NON-IMPAIRED BY THIS COMMISSION?**

10 A. No. The Joint CLECs' concern about blocking orders is really a non-issue. Qwest will
11 *not* block CLEC orders until a wire center is formally declared non-impaired, whether by
12 operation of law because there is no dispute, or as the result of the Commission's
13 resolution of a dispute between Qwest and CLECs. Either way, a CLEC's "reasonably
14 diligent inquiry" will advise it that the wire center is non-impaired, and therefore, that
15 Qwest will not be accepting new orders for UNEs at that wire center.

16 **VI. TIMING AND NOTICE**

17 **Q. MR. DENNEY STATES AT PAGE 39 OF HIS REBUTTAL TESTIMONY THAT**
18 **QWEST SHOULD GIVE NOTICE TO CLECs AT LEAST FIVE BUSINESS**
19 **DAYS *BEFORE* IT FILES A REQUEST WITH THIS COMMISSION TO ADD**
20 **TO THE LIST OF NON-IMPAIRED WIRE CENTERS. IS THAT NECESSARY**
21 **OR APPROPRIATE?**

1 A. No, it is not. Indeed, Mr. Denney does not explain why CLECs should have more than
2 30 days to inform this Commission if they have any objection to the addition of a
3 particular wire center to the list of non-impaired wire centers. A time period of 30 days
4 notice is plenty of time for CLECs to review the supporting data submitted by Qwest and
5 determine if they have such an objection to Qwest's non-impaired wire center
6 designation. There is no reason that CLECs should be given notice *before* Qwest actually
7 files a request with this Commission.

8 **Q. MR. DENNEY STATES ON PAGES 33 AND 34 OF HIS REBUTTAL**
9 **TESTIMONY THAT "CLECs SHOULD BE INFORMED WHEN A WIRE**
10 **CENTER IS WITHIN 5,000 LINES, OR WITHIN 1 FIBER COLLOCATOR, OF**
11 **CHANGING DESIGNATION." IS THIS APPROPRIATE?**

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

18 The FCC set forth the threshold, and requiring reporting in addition to that threshold is an
19 undue burden that the FCC did not contemplate. Nor did the FCC require any such
20 advance notice. Further still, I am not aware of any state commission in any *TRRO*
21 proceeding or arbitration requiring such advance notice. It should be sufficient that when
22 Qwest becomes aware that a wire center has actually met the requirements to warrant a

1 change in status, Qwest will notify this Commission and CLECs that Qwest is seeking a
2 change in that wire center's designation.

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

8 A. No. Mr. Denney even quotes Qwest's *TRO/TRRO* Amendment in footnote 67 of his
9 rebuttal testimony. The quote states that the transition period begins "[t]hirty (30) Days
10 after notification from Qwest." Thus, transitions begin 30 days after notification. If there
11 is any uncertainty, it might be in the transition timing for wire centers that are in dispute,
12 but this was not the issue that Mr. Denney raises. Obviously, Qwest cannot begin a
13 transition of loops in disputed wire centers until this Commission has determined that
14 those wire centers are non-impaired.

15 **Q. MR. DENNEY STATES AT PAGE 33 OF HIS REBUTTAL TESTIMONY THAT**
16 **WIRE CENTER UPDATES SHOULD ONLY TAKE PLACE ONCE A YEAR.**
17 **DOES QWEST AGREE?**

18 A. No. Mr. Denney's testimony suggests that since ARMIS data is only available once a
19 year, Qwest should be limited to once-yearly wire center updates. Qwest reasonably
20 assumes that Mr. Denney only meant this statement to apply to business line updates, as

1 the ARMIS data only applies to business lines.² Additions of fiber-based collocators,
2 however, may take place at any time during the year. Since a change in the number of
3 fiber-based collocators can change the status of a wire center to non-impaired, Qwest
4 should be allowed to make updates to the list of non-impaired wire centers, at any time
5 during the year, when that reclassification is based on the count of fiber-based
6 collocators.³

7 **Q. MR. DENNEY CLAIMS AT PAGE 37 OF HIS REBUTTAL TESTIMONY THAT**
8 **FOR WIRE CENTERS THAT ARE ADDED TO THE LIST OF NON-IMPAIRED**
9 **WIRE CENTERS, QWEST’S PROPOSED TRANSITION PERIODS ARE TOO**
10 **SHORT AND NOT IN COMPLIANCE WITH THE *TRRO*. IS HE CORRECT?**

11 A. No. Although the FCC did mention there might be some “rate shock” involved in the
12 transition to new services (although it did not deem it “significant” as Mr Denney
13 claims), what Mr. Denney does not mention is that the FCC was discussing the transition
14 for the *initial set* of wire centers. The one-year period outlined in the *TRRO* was to begin
15 upon the effective date of the *TRRO*, March 11, **2005**. That transition period has already
16 expired as of March 11, **2006**.⁴ The FCC did not make any statements with regard to
17 transition periods for subsequent wire centers. However, it does not follow that the

² At the hearing on this matter in Utah, Mr. Denney admitted as much.

³ The FCC anticipated such changes as well, stating. “We recognize that some high-capacity loops with respect to which we have found impairment may in the future meet our thresholds for non-impairment. For example, as competition grows, competitive LECs may construct new fiber-based collocations in a wire center that currently has more than 38,000 business lines but 3 or fewer collocations. In such cases, we expect incumbent LECs and requesting carriers to negotiate appropriate transition mechanisms through the section 252 process.” *TRRO*, fn. 519.

⁴ For example, the FCC states with regard to DS1 and DS3 loops, “carriers have twelve months from the effective date of this Order to modify their interconnection agreements, including completing any change of law process. At the end of the twelve-month period, requesting carriers must transition all of their affected high-capacity loops to alternative facilities or arrangements.” *TRRO*, ¶ 196.

1 transition for additions to the non-impaired wire center list should be as long as the initial
2 transition. Subsequent transitions are likely to be for only one or two wire-centers at a
3 time. Conversely, there will also be a much smaller subset of services to convert.
4 Accordingly, Qwest believes that the transition periods it established are more than
5 reasonable. A number of CLECs apparently agree, as they have signed Qwest's
6 *TRO/TRRO* Amendment.

7
8 **VII. CONCLUSION**

9 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

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

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

18 A. Yes, it does.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1251

In the Matter of:

**COVAD COMMUNICATIONS COMPANY, ESCHELON TELECOM OF
OREGON, INC., MCLEODUSA TELECOMMUNICATIONS SERVICES INC.,
and XO COMMUNICATIONS SERVICES, INC.**

Request for Commission Approval of Non-impairment Wire Center List

REPLY TESTIMONY OF

ROBERT H. BRIGHAM

FOR

QWEST CORPORATION

June 16, 2006

**REPLY TESTIMONY OF ROBERT H. BRIGHAM
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1 **I. IDENTIFICATION OF WITNESS**

2
3 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**
4 **WITH QWEST CORPORATION.**

5 A. My name is Robert H. Brigham. I am employed by Qwest Services Corporation,
6 (“QSC”),¹ parent company of Qwest Corporation (“Qwest”), as Staff Director-
7 Public Policy. My business address is 1801 California Street, Denver, Colorado.

8
9 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?**

10 A. Yes. On April 21, 2006, I filed direct testimony in this proceeding.
11

12 **II. PURPOSE OF TESTIMONY**

13
14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. The purpose of my reply testimony is to address issues raised in the rebuttal
16 testimony of Mr. Douglas Denney, filed on behalf of the Joint CLECs² on May 19,
17 2006. In his testimony, Mr. Denney argues that the Qwest business access line data
18 presented in my direct testimony should not be utilized to determine whether certain
19 of Qwest’s Oregon wire centers are non-impaired for DS1/DS3 loops and transport.
20 Instead, Mr. Denney recommends that the Commission utilize the business line
21 analysis that he has performed based on ICONN³ data, and accept the wire center

¹ QSC performs support functions, such as regulatory support, for other Qwest entities.

² The “Joint CLECs” include Eschelon Telecom Inc., Covad Communications Corporation and XO Communications Services, Inc.

³ “ICONN” is an acronym for “Interconnection,” and represents an informational database publicly available for use by Qwest’s wholesale customers to obtain various information regarding Qwest’s network in each of Qwest’s 14 states.

1 designations contained in Table 1 of his testimony. My reply testimony
2 demonstrates that (1) Mr. Denney's critique of Qwest's business line analysis is
3 flawed and ignores the requirements of the FCC's Triennial Review Remand Order
4 ("*TRRO*"), (2) Mr. Denney's analysis of Oregon business lines contains a number
5 of significant errors that render it meaningless, and (3) Mr. Denney's analysis leads
6 to incorrect conclusions, as summarized in his Table 1, regarding non-impairment
7 in Oregon wire centers. My reply testimony, along with the reply testimonies of
8 Ms. Albersheim and Ms. Torrence, reinforce the fact that Qwest's *TRRO* data is
9 sound, and should be relied on to determine the non-impaired wire centers in
10 Oregon.

11 12 **III. VINTAGE OF LINE COUNT DATA**

13
14 **Q. MR. DENNEY COMPLAINS THAT *TRRO* BUSINESS LINE COUNTS**
15 **SHOULD NOT BE BASED ON "DATA COLLECTED OVER A YEAR**
16 **PRIOR TO THE EFFECTIVE DATE OF THE *TRRO*."⁴ PLEASE**
17 **COMMENT.**

18 A. The FCC clearly meant for Regional Bell Operating Companies ("RBOCs") to
19 utilize access line data that was finalized and readily available on February 4, 2005,
20 when the FCC directed Qwest and the other RBOCs to submit their lists of wire
21 centers meeting the *TRRO*'s non-impairment criteria. To illustrate, in paragraph
22 105 of its *TRRO*, the FCC stated:

23
24 Business line counts are an objective set of data **that incumbent LECs**
25 **already have created for other regulatory purposes.** The BOC wire center

⁴ Joint CLECs/1, Denney/15.

1 data that we analyze in this Order is based on ARMIS 43-08 business lines,
2 plus UNE-P, plus UNE-loops. (Emphasis added.)

3
4 Clearly, the FCC directed RBOCs to utilize official ARMIS data that had already
5 been created and finalized for inclusion in ARMIS Report 43-08. The only Qwest
6 ARMIS reports on file as of February 4, 2005 were the reports based on December
7 2003 data. Qwest submits its access line data to the FCC in April of each year for
8 incorporation into the ARMIS report, and as such, it submitted data for full year
9 2004 to the FCC in April 2005, nearly two full months after the FCC's February 4,
10 2005 order. It is not reasonable to contend that the FCC's clear directions meant
11 that the FCC intended for RBOCs to use *incomplete* and *unofficial 2004 data*,
12 assuming it was even available at the time, to determine wire center non-
13 impairment. Simply stated, and contrary to Mr. Denney's assertion, full year 2004
14 ARMIS access line data was not finalized and available in February 2005, when
15 Qwest was required by the FCC to complete its wire center non-impairment
16 analysis.

17
18 The fact that time has intervened between Qwest's initial wire center non-
19 impairment filing and today does not undermine the fact that the use of December
20 2003 business line data is completely appropriate as a basis for Qwest's initial list
21 of non-impaired wire centers.

22
23 **Q. MR. DENNEY ALLEGES THAT THE FCC, IN THE *TRRO*,**
24 **SPECIFICALLY REFERS TO DECEMBER 2004 ARMIS DATA WHEN**
25 **ANALYZING THE ARMIS 43-08 BUSINESS LINES.⁵ PLEASE**
26 **COMMENT.**

⁵ Joint CLECs/1, Denney/15.

1 A. Mr. Denney claims that in footnote 303 (referenced in paragraph 105) of the *TRRO*,
2 the FCC “specifically refers to December 2004 ARMIS data.”⁶ He cites this as an
3 indicator that the FCC meant for the non-impairment analysis to reflect December
4 2004 data.

5

6 In fact, Mr. Denney misrepresents the meaning of the FCC’s footnote. Footnote
7 303 refers to the *FCC Report 43-08 Report Definitions* that were to be used in the
8 preparation of December 2004 ARMIS data. (The full document is available at
9 <http://www.fcc.gov/wct/armis/documents/2004pdfs/4308c04.pdf>., as shown in fn.
10 303.) These definitions do not contain actual 2004 ARMIS data as implied by Mr.
11 Denney, but simply provide instructions for the preparation of year-end 2004 data
12 that would be available in April 2005. Obviously, 2004 ARMIS data was not
13 available in December 2004, and therefore “the BOC wire center data that we (the
14 FCC) analyze in this order” could not possibly be based on 2004 ARMIS data—as
15 implied by Mr. Denney.

16

17 **Q. IS MR. DENNEY’S CLAIM THAT 2004 ARMIS DATA SHOULD BE USED**
18 **IN QWEST’S NON-IMPAIRMENT ANALYSIS INCONSISTENT WITH**
19 **OTHER RECOMMENDATIONS IN HIS TESTIMONY?**

20 A. Yes. Mr. Denney claims that Qwest should have used 2004 business line data in its
21 February 2005 submission, under the apparent belief that such data must have been
22 “readily ascertainable” to Qwest, even though 2004 ARMIS data was not yet
23 available. He states that there is “no reason to use stale data collected many months
24 earlier for such a critical determination.”⁷

⁶ Joint CLECs/1, Denney/15.

⁷ Joint CLECs/1, Denney/16.

1

2 However, later in his testimony, in discussing the process for adding wire centers to
3 the non-impairment list, he states that “due to the FCC’s reliance on ARMIS data,
4 updates based on line counts are appropriate only when new ARMIS data is
5 available, i.e., *once a year*.” (Emphasis added.)⁸ Thus, he appears to acknowledge
6 that switched business lines should be identified based on the *latest available*
7 ARMIS data, and that updated ARMIS data is only released once a year. Yet, in his
8 critique of Qwest’s business line identification methods, he claims that in February
9 2005, Qwest should have somehow used 2004 line data, even though 2004 ARMIS
10 data was not yet available. It is entirely inconsistent for Mr. Denney to
11 acknowledge that the latest ARMIS data should be used for Qwest’s non-
12 impairment analysis, while at the same time arguing that the 2003 ARMIS data—
13 the most recent available as of February 2005—should not be utilized (because it is
14 somehow “stale”). In fact, Qwest’s use of 2003 ARMIS data is completely
15 consistent with Mr. Denney’s recommended procedure for updating wire centers.

16

17 **Q. HAVE ANY OTHER STATE COMMISSIONS FOUND THAT THE USE OF**
18 **DECEMBER 2003 ARMIS DATA IS APPROPRIATE?**

19 A. Yes. Table 5 at page 31 of Mr. Denney’s testimony provides his interpretation of
20 the determinations made by state commissions on various issues related to the
21 definition of “business lines” per the terms of the *TRRO*. His table demonstrates
22 that thus far, only two state commissions—Michigan and North Carolina—have
23 required RBOCs to use access line data other than December 2003 ARMIS data.

24

⁸ Joint CLECs/1, Denney/33.

1 Interestingly, Mr. Denney cites to the Washington *TRRO* order issued on April 20,
2 2006 in Docket UT-053025. This was the first state commission decision rendered
3 in Qwest’s 14-state region, and Mr. Denney correctly reports that the Washington
4 order found Qwest’s use of December 2003 ARMIS data to be in full compliance
5 with the requirements of the *TRRO*. The Washington Commission stated:

6
7 It is reasonable for Verizon and Qwest to submit to the Commission
8 December 2003 ARMIS data to support the designation of their initial list of
9 “non-impaired” wire centers. It was the most recent data on file with the FCC
10 at the time it entered the *TRRO*. The FCC used this data in establishing the
11 wire center tiers. Qwest and Verizon used this data in filing their initial lists
12 of non-impaired wire centers with the FCC.⁹
13

14 Thus, the Washington order found that Qwest’s use of December 2003 ARMIS data
15 was in full compliance with the requirements of the *TRRO*. The Commission
16 rendered this decision despite the fact that the CLECs argued, as they have in this
17 docket, that the use of more current access line data should be required.

18
19 **Q. WAS DECEMBER 2003 ACCESS LINE DATA USED IN OTHER STATE**
20 ***TRRO* PROCEEDINGS?**

21 A. Yes. For example, AT&T Texas utilized December 2003 ARMIS 43-08 access line
22 data in its non-impairment analysis, and the Texas Commission found in its
23 investigation that “AT&T Texas’ determination, counting, and reporting of business
24 lines for its wire centers is consistent with the FCC’s directive at ¶ 105 of the
25 *TRRO*.”¹⁰
26

⁹ *In the Matter of the Investigation Concerning the Status of Competition and Impact of the FCC’s Triennial Review Remand Order on the Competitive Telecommunications Environment in Washington State*, Docket UT-053025, Order 3 (April 20, 2006) (“*Washington TRRO Order*”), at ¶ 23.

¹⁰ *Post-Interconnection Dispute Resolution Proceeding Regarding Wire Center UNE Declassification*, Texas PUC, Docket No. 31303, Order Approving Methodology to Determine AT&T Texas Wire Centers which are Non-Impaired (April 7, 2006), at p. 29.

1 A recent *TRRO* decision by the Ohio Commission (not noted in Table 5 of Mr.
2 Denney’s testimony) specifically approved the use of 2003 ARMIS data:

3
4 The Commission finds that, for the initial list of wire centers, the use of the
5 most recent ARMIS data available at the time of designation, which in this
6 case was the December 2003 ARMIS business line counts, is appropriate. . .
7 While the 2004 ARMIS data is now available, using it for the initial wire
8 center impairment determinations for high capacity loops and transport would
9 be at odds with the way future wire center impairment determinations will be
10 made (i.e., using the most recent data available at the time of the
11 designation).¹¹

12
13 In addition, while not listed in Mr. Denney’s Table 5, the Illinois, California and
14 Indiana commissions approved SBC’s wire center *TRRO* non-impairment lists, each
15 of which were based upon *December 2003* access line data. While these orders do
16 not contain specific language that explicitly endorses the December 2003 data
17 vintage, the record expressly shows that SBC used December 2003 data, and that
18 none of the commissions rejected these data. Had these commissions believed a
19 more current data vintage were required, they most certainly would have ordered
20 SBC to provide updated access line counts.

21
22 Table 5 also does not list Verizon states, where the procedural mechanism for
23 establishing wire center non-impairment was via tariff filings (instead of fully
24 contested dockets), and where the original lists of non-impaired wire centers were
25 also based on December 2003 business line data. For example, in its filing to
26 expand its original non-impaired wire center list in Rhode Island, Verizon stated:

¹¹ *In the Matter of the Petition of XO Communications, Inc. Requesting a Commission Investigation of Those Wire Centers that AT&T Ohio Asserts are Non-impaired*, Ohio PUC, Case No. 05-1393-TP-UNC, Finding and Order (June 6, 2006) (“*Ohio TRRO Order*”), at p. 20.

1 The original wire center list, which is being updated here, was based
2 principally on 2003 data, as amended in late 2004 to reflect terminated
3 collocation arrangements.¹²

4
5 While these examples are not reflected in Mr. Denney's Table 5, they represent
6 additional instances where state commissions have endorsed the use of December
7 2003 access line data in their *TRRO* wire center non-impairment analyses.

8
9 **Q. MR. DENNEY SUGGESTS THAT QWEST SHOULD PROVIDE**
10 **DECEMBER 2004 LINE DATA, AND THAT THE COMMISSION SHOULD**
11 **REVIEW "BOTH THE 2004 DATA AND THE 2003 DATA" TO SEE IF**
12 **THEY "SUPPORT QWEST'S NON-IMPAIRMENT CLAIMS."¹³ IS THIS**
13 **WARRANTED?**

14 A. No. December 2004 data is completely irrelevant to the non-impairment
15 determination for Oregon wire centers. Qwest is required to utilize the *most current*
16 *data available* when seeking to designate wire centers as non-impaired. As
17 demonstrated above, December 2003 ARMIS data was the most current data
18 available when the FCC issued its *TRRO* order, and thus must be used for the non-
19 impairment analysis in this case. Mr. Denney essentially recommends that the 2003
20 ARMIS business line count data should be "verified" by comparing it with 2004
21 business line data. Apparently, Mr. Denney would argue that if a wire center met
22 the threshold using 2003 data, but did not meet the threshold using 2004, data, that
23 the wire center should somehow be considered "impaired." This approach violates
24 the FCC's *TRRO* rules, which state that once a wire center is determined to be non-
25 impaired (e.g., using 2003 data), it cannot subsequently be found to be "impaired,"

¹² Docket No. 3662 -- Verizon Rhode Island's Proposed Revision to PUC Tariff 18, January 13, 2006, footnote 4.

¹³ Joint CLECs/1, Denney/17.

1 even if the business lines drop below the non-impairment threshold based on later
2 (e.g., 2004) data. 47 CFR § 51.319(e)(3)(i), § 51.319(e)(3)(ii); *TRRO*, fn. 466.

3
4 Qwest is also required to utilize the *most current data available* when seeking to
5 designate additional wire centers as non-impaired. For example, Qwest would be
6 required to utilize 2005 ARMIS data (the most current ARMIS data available
7 today) if it were to seek to designate an additional Oregon wire center as non-
8 impaired for DS1/DS3 loops or transport at any point during the remainder of 2006.

9
10 **Q. MR. DENNEY ARGUES THAT “QWEST SHOULD NOT BE ALLOWED**
11 **TO CHOOSE LINE COUNTS FROM THE PRESENT AND FIBER-BASED**
12 **COLLOCATORS FROM THE PAST”¹⁴ IN DETERMINING WIRE**
13 **CENTER NON-IMPAIRMENT. PLEASE COMMENT.**

14 A. Apparently, Mr. Denney believes that Qwest takes the position it can somehow
15 “pick and choose” data vintages that best suit its purposes in determining non-
16 impairment. To the contrary, however, the FCC’s requirements concerning the use
17 of ARMIS data constrain Qwest to use the *most current* access line data in its
18 ARMIS 43-08 report when a non-impairment designation is requested. Since the
19 cycle for such ARMIS data requires it to be filed in April for the previous year’s
20 data, this constraint necessarily means that the business access line data used in
21 non-impairment determinations will always be year-end data, and of an earlier
22 vintage than fiber collocation data used in the analysis. Since the FCC’s order and
23 associated rules regarding ARMIS reports do not apply to fiber collocation data,
24 (and I understand that the CLECs agree with this point), RBOCs may rely on more
25 current fiber collocation data in determining Tier 1 and Tier 2 *TRRO* wire center

¹⁴ Joint CLECs/1, Denney/20.

1 designations. There is absolutely nothing in the FCC's *TRRO* and associated rules
2 that requires the same vintage of access line and fiber collocation data to be used in
3 determining non-impairment. Indeed, this is perhaps why Mr. Denney has
4 apparently admitted that the requirement to update business lines only once a year
5 does not apply to an updating of fiber-based collocators, which he has apparently
6 admitted can be made whenever a wire center meets a fiber-based collocator non-
7 impairment threshold.

8
9 As the Ohio Commission noted:

10
11 The Commission agrees with AT&T Ohio that requiring business line data
12 and fiber-based collocator data to be from the exact same time period would
13 create an unwarranted limitation on the frequency of AT&T Ohio's wire
14 center additions.¹⁵

15
16 **IV. MR. DENNEY'S ANALYSIS OF ICONN DATA**

17
18 **Q. PLEASE DESCRIBE MR. DENNEY'S ANALYSIS OF ICONN DATA.**

19 A. Mr. Denney provides an analysis of Qwest ICONN¹⁶ data in Table 3 of his
20 testimony, which he claims shows the "maximum business loops in service" for
21 each of the seven relevant Oregon wire centers. This data was derived from two
22 separate ICONN reports. First, Mr. Denney identified a "loop" quantity from the
23 ICONN report entitled "Loops in Service." Second, Mr. Denney identified business
24 and residential "network access line" data from the ICONN "Central Office Find"

¹⁵ *Ohio TRRO Order*, at p. 20.

¹⁶ As I noted (at footnote 3), "ICONN" is an acronym for "Interconnection," and represents an informational database publicly available for use by Qwest's wholesale customers to obtain various information regarding Qwest's network in each of Qwest's 14 states. The ICONN database is not used as a source of data for any regulatory proceeding, however, and data derived from that resource is clearly neither relevant nor admissible under the FCC's standards.

1 report. Using this data, Mr. Denney calculated “a proxy for the number of Qwest
2 loops used to serve business customers by subtracting residential lines from the
3 total number of loops in service.”¹⁷

4
5 **Q. BASED ON THIS DATA, WHAT DOES MR. DENNEY CONCLUDE?**

6 A. Mr. Denney claims that the publicly available “proxy” data from the Qwest
7 “ICONN” database “does not support Qwest’s findings of non-impairment.”¹⁸ He
8 claims that this “loop” data supports: (1) Tier 1 status for the Portland Capitol wire
9 center, but only Tier 2 status for the Eugene 10th Avenue and Salem Main wire
10 centers; (2) Tier 3 status for all other wire centers, and (3) non-impaired status for
11 DS3—not DS1—in the Portland Capitol wire center.

12
13 Mr. Denney states that the ICONN data “is the basis for the Joint CLECs’
14 determination that Qwest wire centers have not met the ‘non-impaired’ status
15 Qwest has claimed.”¹⁹ In fact, it is apparent that for five of the seven Oregon wire
16 centers, the Joint CLECs’ recommended wire center designations presented in
17 Table 1 of Mr. Denney’s testimony are based solely on the results of Mr. Denney’s
18 ICONN business line analysis.

19
20 **Q. ARE YOU SURPRISED THAT MR. DENNEY HAS BASED THE JOINT**
21 **CLECS’ RECOMMENDED WIRE CENTER DESIGNATIONS IN TABLE 1**
22 **PREDOMINANTLY ON MR. DENNEY’S ICONN BUSINESS LINE**
23 **ANALYSIS?**

¹⁷ Joint CLECs/1, Denney/18.

¹⁸ Joint CLECs/1, Denney/17.

¹⁹ Joint CLECs/1, Denney/20.

1 A. Yes. Prior to stating that the ICONN data represents the foundation of the Joint
2 CLECs' recommendation, Mr. Denney states that ICONN data should not be used
3 to determine non-impairment status:

4
5 **Q. SHOULD THE DATA DESCRIBED ABOVE (ICONN DATA) BE**
6 **USED TO DETERMINE THE “NON-IMPAIRED” STATUS OF**
7 **QWEST’S WIRE CENTERS IN OREGON?**
8

9 A. No. Ideally Qwest would provide December 2004 data for review. The
10 data presented above demonstrates the importance of reviewing data
11 contemporaneous with the *TRRO*. The data shows significant doubts as to
12 Qwest's claims based on switched business line count data, but final
13 determinations should be based upon line counts developed in response to
14 the FCC's definition of switched business lines consistent with the
15 effective date of the *TRRO*. CLECs have requested this data to CLECs.
16 Absent Qwest's actual data, this data is the basis for the Joint CLECs'
17 determination that Qwest's wire centers have not met the “non-impaired”
18 status Qwest has claimed. (Emphasis added.)²⁰
19

20 Mr. Denney first states that the ICONN data should *not* be used to determine non-
21 impairment status—then he uses this data (which he refers to as “proxy” data) for
22 just that purpose. Indeed, a major portion of the Joint CLECs' recommendation
23 regarding non-impaired wire centers is solely based on ICONN data that Mr.
24 Denney admits should not be used for this purpose.

25
26 **Q. CAN MR. DENNEY’S ICONN ANALYSIS BE USED TO DETERMINE IF A**
27 **WIRE CENTER IN NON-IMPAIRED?**

28 A. No. As I will demonstrate, Mr. Denney's analysis of business lines misinterprets
29 and misuses ICONN data, and does not comport with the FCC's *TRRO* business
30 line definition. In effect, Mr. Denney is trying to fit a round peg into a square hole.
31 Thus, the Commission should reject the Joint CLECs' non-impairment
32 recommendations contained in Table 1 of Mr. Denney's testimony.

²⁰ Joint CLECs/1, Denney/19-20.

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**Q. HOW HAS MR. DENNEY MISINTERPRETED AND MISUSED THE
ICONN DATA?**

A. Mr. Denney’s analysis appears to assume that a “loop” as defined in the ICONN “Loops in Service” report is equivalent to an ARMIS Report 43-08 access line, and that subtracting “residential” lines (as reported in the “Central Office Find” report) from the total loops will yield a count of “business” lines. However, this is an entirely flawed assumption—subtracting “residential access lines” from total “loops,” as Mr. Denney has done, does not provide a meaningful estimate of business lines as defined by the FCC’s *TRRO* rules.

First, a “loop” as identified in the ICONN “Loops in Service” report is *not* equivalent to an “access line” as defined in ARMIS Report 43-08 or the *TRRO*.²¹ Unlike ARMIS Report 43-08 data, the loop counts in the ICONN “loops in service” report specifically *exclude all high-capacity loops*, such as ISDN-PRI loops or wholesale DS1 UNE loops. That is, DS1 high-capacity loops are not counted as 24 voice-grade equivalents, 12 voice-grade equivalents, or even one voice-grade equivalent—*DS1 loops (and DS3 loops) are not counted at all*.

In its *TRRO* implementation rules at 47 CFR 51.5(3), the FCC specified that:

business line tallies shall account for ISDN and other digital access lines by counting each 64KBPS-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 business lines.

²¹ A “loop” in the ICONN “loop in service” report is not even equivalent to a “network access line” as defined in the ICONN “central office find” database.

1 Thus, the ICONN “loop” data represents the wrong starting point for a *TRRO*
2 business line analysis, and its use is entirely contrary to the FCC’s directives in its
3 *TRRO*.

4
5 Second, Mr. Denney identifies the residential access line count from the ICONN
6 “Central Office Find” report, and subtracts these lines from the loops in the ICONN
7 “Loops in Service” report, apparently under the mistaken assumption that ICONN
8 “loops” and “network access lines” are equivalent. However, the residential access
9 line quantities in the ICONN “Central Office Find” report are based on ARMIS
10 Report 43-08 data—but do not include any wholesale UNE loops. Thus, Mr.
11 Denney’s calculation subtracts ARMIS retail residential access lines (excluding
12 wholesale loops) from total retail and wholesale (UNE) loops (excluding all high-
13 capacity DS1 and DS3 loops). This is subtracting apples from oranges.

14
15 It is readily apparent that this calculation yields a business access line count that is
16 significantly understated, since the starting point (loops in service) excludes a
17 significant number of business lines (DS1 and DS3 retail and wholesale loops) that
18 must be included in the *TRRO* business line analysis.

19
20 **Q. CAN ANY MEANINGFUL CONCLUSIONS BE DRAWN FROM MR.**
21 **DENNEY’S ANALYSIS OF THE ICONN DATA FOR OREGON WIRE**
22 **CENTERS?**

23 A. No. Based on Mr. Denney’s misuse of ICONN data, he incorrectly concludes that
24 several wire centers should be re-classified, as summarized in Table 1 at page 3 of
25 his testimony. For example, he concludes based on his analysis that the Portland
26 Capitol wire center has a maximum of [**Confidential - XXXXX**] “business loops in
27 service,” and therefore does not pass the non-impairment test for DS1 loops.

1 However, this ICONN-based count does not include any DS1/DS3 or DS1/DS3
2 equivalents, as described above, and thus Mr. Denney's calculation is in violation
3 of the FCC's *TRRO* rules. Had Mr. Denney strictly followed the FCC's clear *TRRO*
4 definitions, or at least used assumptions conforming to the FCC's definitions, he
5 most certainly would have arrived at a far different result.

6
7 In fact, the extent of Mr. Denney's error can be measured by viewing the Qwest
8 data for the Portland Capitol wire center. As shown in Confidential Exhibit
9 Qwest/6, Qwest identified [Confidential- XXXXX] Qwest retail business access
10 lines and [Confidential- XXXXX] wholesale UNE-L and EEL lines in the Portland
11 Capitol wire center.²² These totals include [Confidential- XXXX] retail DS1
12 facilities (e. g, ISDN-PRI, DSS), [Confidential- XXX] DS1 loop UNEs, and
13 [Confidential- x DS3 loop UNEs]. Thus, of the [Confidential- XXXXX] business
14 lines in this wire center, [Confidential- XXXXX] are based on high-capacity loops
15 [Confidential ((XXXX*24) + (XXX*24) + (X*672) = XXXXX)], and
16 [Confidential- XXXXX] are based on DS0 or voice-grade (non-high-capacity)
17 circuits. Essentially, Mr. Denney's methodology excludes all high-capacity
18 circuits, resulting in a major [Confidential- (XXXXX)] understatement of business
19 access lines per the *TRRO* business line definition. Even if we assume that each
20 retail DS1 circuit is equivalent to less than 24 voice channels (as reflected in
21 unadjusted ARMIS data), the understatement is still very significant. For example,
22 if there were 20 used channels in each retail DS1, there would still be
23 [Confidential- XXXXX] voice-grade equivalents associated with the
24 [Confidential- XXXX] retail and wholesale DS1s in the Portland Capitol wire
25 center [Confidential- ((XXXX * 20) + (XXX * 24) = XXXXX).]

²² There are also [Confidential- XXXX] UNE-P lines.

1 Based on Mr. Denney’s methodology, none of these would be included in the
2 business access line counts.

3
4 It is noteworthy that this exclusion of all DS1 and DS3 loops is not consistent with
5 Mr. Denney’s advocacy elsewhere in his testimony. Mr. Denney states that
6 “Qwest’s switched business line counts should be counted consistent with ARMIS
7 43-08,”²³ which includes all *used* voice-grade equivalent channels for each DS1.
8 Yet his ICONN-based business line calculations exclude all of these used DS1
9 channels.

10
11 **Q. WHAT DO YOU CONCLUDE?**

12 A. The Commission should dismiss Mr. Denney’s ICONN-based analysis since it
13 drastically understates switched business lines as defined by the FCC in the *TRRO*,
14 and is based on a vintage (March 2006) that is not germane to this docket. Since
15 the Joint CLECs’ recommended “Wire Center Designation” for non-impairment as
16 outlined in Table 1 is primarily based on the fatally-flawed ICONN analysis, the
17 Commission should flatly reject the Joint CLECs’ recommendations regarding non-
18 impaired wire centers.

19
20 **V. CONSISTENCY WITH ARMIS 43-08 LINE DATA**

21
22 **Q. MR. DENNEY COMPLAINS THAT “QWEST STARTED WITH ITS**
23 **ARMIS DATA, BUT MANIPULATED THIS DATA IN A MANNER**

²³ Joint CLECs/1, Denney/21.

1 **INCONSISTENT WITH THE *TRRO*.” (EMPHASIS ADDED.)²⁴ IS HE**
2 **CORRECT?**

3 A. No. Mr. Denney acknowledges that paragraph 105 of the *TRRO* requires Qwest to
4 include “ARMIS 43-08 data, plus business UNE-P, plus UNE loops.” However, he
5 then ignores the FCC’s associated implementation rules at 47 CFR § 51.5, which
6 define a business line as follows:

7
8 A *business line* is an incumbent LEC-owned switched access line used to
9 serve a business customer, whether by the incumbent LEC itself or by a
10 competitive LEC that leases the line from the incumbent LEC. (Emphasis
11 added.)

12
13 In 47 CFR § 51.5(3), the FCC continues:

14 Among these requirements, *business line* tallies shall account for ISDN and
15 other digital access lines by counting each 64 kbps-equivalent as one line. For
16 example, a DS1 line corresponds to 24 64-kbps equivalents, and therefore to
17 24 *business lines*. (Emphasis added.)

18
19 The FCC rules clearly state that a “business line” is defined as lines used by either
20 LECs or CLECs to serve customers. Subsection 3 specifically states that “business
21 lines,” which include, by the FCC’s definition, *both* wholesale *and* retail high-
22 capacity digital lines, are to be adjusted to reflect the 64-kbps equivalents (DS0-
23 channels). The rule specifically states that a DS1 corresponds to 24 64-kbps
24 equivalents.

25
26 Further, it is noteworthy that ARMIS 43-08 access line data already counts actual
27 digital channels in service (e.g., an ISDN Primary Rate customer using 16 of the
28 available 24 channels would be reported as 16 “business lines” to ARMIS). Had
29 the FCC intended that only “active channels” be counted, subsection 3 of the FCC’s

²⁴ Joint CLECs/1, Denney/21.

1 *TRRO* implementation rule requiring a DS1 loop to be counted as 24 (64-kbps
2 equivalents) business lines would not have been necessary. Instead, the FCC would
3 have ruled that the ILEC should only count “active channels” or “channels in use.”
4 The FCC did not do so, however, and expressly ruled that a digital (DS1 and DS3)
5 loop should be counted by its total capacity (24 business lines for a DS1 loop and
6 672 business lines (24 DS1s * 28) for a DS3 loop).

7
8 In short, the FCC’s rule plainly states that each 64-kbps channel equivalent in a
9 DS1 facility should be counted as one line. Qwest expressly complied with this
10 rule by counting the lines associated with digital business services in Oregon wire
11 centers, as reflected in Confidential Exhibit Qwest/6 attached to my direct
12 testimony. There was no “manipulation” of data by Qwest as Mr. Denney claims. .

13
14 **Q. DOES MR. DENNEY ACKNOWLEDGE THAT SOME STATE**
15 **COMMISSIONS HAVE ORDERED ADJUSTMENTS TO ARMIS 43-08**
16 **DATA CONSISTENT WITH QWEST’S DATA IN THIS DOCKET?**

17 A. Yes. Mr. Denney’s Table 6 shows that at least three other state commissions—in
18 Florida, Georgia and South Carolina—have concluded that adjusting the ARMIS
19 data to reflect the full capacity of digital facilities fully complies with the *TRRO*.²⁵

20
21 **Q. MR. DENNEY APPEARS TO SUPPORT THE USE OF UNADJUSTED**
22 **ARMIS 43-08 DATA FOR QWEST RETAIL BUSINESS LINE COUNTS. IS**

²⁵ Table 5 of Mr. Denney’s testimony also notes that other commissions have approved a business line count methodology that includes unadjusted “as is” ARMIS line counts. In the Verizon and AT&T (SBC) states, commissions generally approved the use of unadjusted ARMIS 43-08 data that Verizon and AT&T (SBC) filed. Regarding the business line data that AT&T (SBC) filed in Texas, Mr. Denney is correct that the data filed by AT&T (SBC) included unadjusted ARMIS 43-08 data. However, the Texas Commission’s order, as quoted in my direct testimony, describes and approves a methodology that may be interpreted as considering a DS1 line to be counted 24 business lines; an approach that “applies to UNE lines and non-UNE lines.”

1 **THIS CONSISTENT WITH HIS ICONN-BASED ANALYSIS DESCRIBED**
2 **EARLIER IN YOUR TESTIMONY?**

- 3 A. No. As noted earlier, Mr. Denney supports the use of ARMIS 43-08 data, which
4 includes the 64-kbps equivalents *utilized* in each DS1 facility. For example, if 16 of
5 the 24 channels in a DS1 facility (e.g., ISDN-PRI) are utilized, this would count as
6 16 business lines. However, in Mr. Denney's ICONN-based calculation, such a
7 DS1 would not be counted at all, as demonstrated earlier in my testimony. Thus,
8 Mr. Denney himself appears to disavow the relevance of his ICONN-based
9 calculations.

10
11 **VI. TREATMENT OF CLEC SWITCHED BUSINESS LINES (UNE-L)**
12

13 **Q. ACCORDING TO THE *TRRO*, WHAT TYPES OF CLEC BUSINESS LINES**
14 **SHOULD BE INCLUDED IN THE "BUSINESS LINE" COUNTS?**

- 15 A. As I described in my direct testimony, the FCC's *TRRO* implementation rules at 47
16 CFR § 51.5 state as follows:

17 The number of business lines in a wire center shall equal the sum of all
18 incumbent LEC business switched access lines, **plus the sum of all UNE**
19 **loops connected to that wire center**, including UNE loops provisioned in
20 combination with other unbundled elements. (Emphasis added.)
21

22
23 This rule clearly requires LECs to include "**all** UNE loops" connected to a wire
24 center in the count of business lines used to determine non-impairment in that wire
25 center. The FCC does not define a subset of UNE loops that should be excluded.
26 In fact, if the FCC had intended the exclusion of specific types of UNE loops (e.g.,
27 UNE loops used by CLECs to serve residential customers or to provide non-

1 switched services), it most certainly would have said so in its rules. The FCC did
2 not, however. Consistent with the FCC's requirements, Qwest has included *all*
3 UNE loops in its *TRRO* business line counts.

4
5 **Q. DOES MR. DENNEY ARGUE THAT QWEST'S INCLUSION OF ALL UNE**
6 **LOOPS IN ITS *TRRO* LINE COUNTS IS IN ERROR?**

7 A. Yes. Mr. Denney complains that Qwest has included some residential and non-
8 switched UNE-L lines in its switched business access lines, and that this is
9 somehow in violation of the "clear language of the FCC's definition."²⁶

10
11 **Q. IS MR. DENNEY CORRECT?**

12 A. No. In fact, it is Mr. Denney's advocacy that violates the "clear language of the
13 FCC's definition." On page 26 of his testimony, he presents a somewhat tortured
14 semantical argument that seeks to show that—despite the FCC's unambiguous
15 ruling that the business line counts should include "the sum of *all* UNE loops
16 connected to that wire center"—the FCC really did not mean to include "all UNE
17 loops" in the count of switched business lines. Essentially, Mr. Denney attempts to
18 present an argument that since the first part of FCC Rule 51.5 (47 CFR § 51.5)
19 defines a business line as "an incumbent LEC-owned switched access line used to
20 serve a business customer," the FCC must somehow have meant that "the sum of all
21 UNE loops connected to that wire center" is just a subset of the previous more
22 generic business line definition, and thus that the FCC's definition is limited to
23 business UNE-L lines.

24

²⁶ Joint CLECs/1, Denney/25.

1 This is the same sort of creative misinterpretation of a very clear FCC rule that
2 CLECs have argued in many other *TRRO* proceedings, but that has been
3 subsequently rejected by nearly all commissions that have addressed the issue.
4 Indeed, Mr. Denney's own Table 5 on page 31 of his testimony shows that *nine* of
5 eleven state commission orders he cites agree with Qwest and other RBOCs that the
6 UNE loop counts used to determine wire center non-impairment should not exclude
7 UNE loops that may be used to serve residential customers. In addition, Mr.
8 Denney's Table 5 shows that no state commission has found that *non-switched*
9 UNE loops should be excluded from the count of business lines to determine wire
10 center non-impairment under the terms of the *TRRO*.

11
12 On pages 12 through 16 of my direct testimony, I presented quotations from
13 numerous commissions that expose the flaws in Mr. Denney's argument. While I
14 will not repeat each of those quotes here, I believe the Georgia Commission's order
15 does a particularly good job of refuting a CLEC advocacy similar to that of Mr.
16 Denney:

17
18 The first sentence includes in the definition of "business line" that it serve a
19 "business customer." However, the next sentence of the line instructs on the
20 manner in which such lines shall be calculated. In setting forth what shall be
21 included in the calculation, the rule modifies the sum of all incumbent LEC
22 switched access lines with the word "business." There is no confusion that
23 this part of the addition is limited to business lines. Yet, in the same sentence,
24 when discussing the sum of all UNE loops connected to that wire center, the
25 rule does not similarly use the modifier "business." If, because of the prior
26 sentence, it would have been duplicative to state that these were business
27 UNE loops, as CompSouth suggests, then the switched access lines need not
28 have been identified as business in the first part of the sentence. That the
29 switched access lines were expressly limited to business lines, and the UNE
30 loops were not so limited, indicates that the limitation does not apply to the
31 UNE loops. In the discussion of business line counts in the *TRRO*, the FCC
32 again refers to "business UNE-P, plus UNE-loops." (§ 105) This conclusion
33 is consistent with the policy goals expressed by the FCC. That the FCC states
34 it intended to measure business "opportunities" in a wire center provides

1 support for why its method to calculate business lines would potentially
2 include non-business lines.²⁷

3

4 **Q. HAS THE WASHINGTON COMMISSION RECENTLY RULED THAT**
5 **ALL UNE LOOPS MUST BE INCLUDED IN THE TRRO BUSINESS LINE**
6 **COUNTS?**

7 A. Yes. Exhibit Joint CLECs/7 includes a copy of the recent Washington *TRRO* Order
8 that is referenced by Mr. Denney. This order is very clear that all UNE loops must
9 be included in the *TRRO* business line analysis:

10

11 The FCC did not qualify the UNE loops it included as business UNE loops or
12 non-switched UNE loops, but *all* UNE loops. Further, in its definition of
13 business lines, the FCC provided: “The number of business lines in a wire
14 center shall equal the sum of all incumbent LEC *business* switched access
15 lines, plus the sum of *all UNE loops* connected to that wire center, including
16 UNE loops provisioned in combination with other unbundled elements.” **All**
17 **UNE loops should be included in the business line calculation.** (Emphasis
18 added.)²⁸

19

20 **Q. DOES PARAGRAPH 105 OF THE TRRO MAKE IT CLEAR THAT ALL**
21 **UNE LOOPS MUST BE INCLUDED IN THE LINE COUNTS?**

22 A. Yes. Not surprisingly, Mr. Denney has not referred to paragraph 105 of the *TRRO*
23 in his discussion of UNE loops. This is probably because this paragraph makes it
24 abundantly clear that the FCC intends the business line count to include *all* UNE
25 loops. In this paragraph, the FCC states that “[t]he BOC wire center data that we
26 analyze in this Order is based on ARMIS 43-08 business lines, plus business UNE-
27 P, *plus UNE-loops.*” (Emphasis added.) The FCC specifically did not analyze only
28 *business* UNE-loops.

²⁷ *Generic Proceeding to Examine Issues Related to BellSouth Telecommunications, Inc.’s Obligations to Provide Unbundled Network Elements*, Ga. PSC, Docket No. 19341-U (February 7, 2006) (“*Georgia TRRO Order*”), at pp. 19-20.

²⁸ *Washington TRRO Order*, ¶ 44.

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The FCC also stated in paragraph 105 of the *TRRO* that “business line counts are an objective set of data that incumbent LECs **have already created for other regulatory purposes,**” and that “by basing our definition in an ARMIS filing required of incumbent LECs, and adding **UNE figures, which must also be reported,** we can be confident in the accuracy of the thresholds, and a simplified ability to obtain the necessary information.” (Emphasis added.) As Qwest has made clear, it does not have any means to determine whether a UNE loop is used by a CLEC to serve a business or residential customer, and has no means to identify whether a UNE loop is used by a CLEC to provide non-switched services. In fact, even Mr. Denney admits that data for residential UNE loops “is difficult to obtain.”²⁹ Thus, residential and non-switched UNE loop data are *not* “*already created for other regulatory purposes.*” In addition, the “*UNE figures, which must also be reported,*” include only the total number of UNE loops—residential and business loops, along with non-switched loops, are not separately reported. It is clear that seeking to separately identify residential, business and non-switched UNE loops would directly violate the intent of the FCC’s *TRRO* business line methodology.

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As the Indiana Commission noted:

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Moreover, when the FCC conducted a sample run of how to compute “business lines” in a wire center in paragraph 105 of the *TRRO*, it used all UNE loops in the wire center, with no exclusions. One reason for this was that the FCC wanted to establish a simple, objective test that relied on data the ILECs already have and which could be easily verified.³⁰

²⁹ Joint CLECs/1, Denney/29.

³⁰ *In the Matter of the Indiana Utility Regulatory Commission’s Investigation of Issues Related to the Implementation of the Federal Communication Commission’s Triennial Review Remand Order and the*

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In sum, this Commission should reject Mr. Denney’s recommended exclusion of residential and non-switched UNE loops. The FCC *TRRO* methodology unambiguously requires the inclusion of *all* UNE loops in the business line counts for each wire center.

VII. MR. DENNEY’S “ADJUSTMENTS” TO QWEST’S ACCESS LINE DATA

Q. MR. DENNEY INTRODUCES A SERIES OF “ADJUSTMENTS” TO QWEST’S BUSINESS LINE DATA IN HIS HIGHLY-CONFIDENTIAL TABLE 4 AT PAGE 28 OF HIS TESTIMONY. ARE HIS “ADJUSTMENTS” PROPER?

A. No. In each instance, Mr. Denney’s “adjustments” to Qwest’s data conflict with the requirements of the *TRRO*. It is Mr. Denney who attempts to “manipulate” the data.

Q. WHAT “ADJUSTMENTS” TO QWEST’S ACCESS LINE DATA DOES MR. DENNEY PROPOSE?

A. Mr. Denney proposes: (1) a “43-08 Adjustment” that purports to use actual ARMIS data; (2) the removal of UNE-L lines used to serve residential subscribers, (3) the removal of non-switched UNE-L line counts and (4) the use of “used capacity” for UNE-P and UNE-L lines to reflect actual channels in service. However, in Highly-Confidential Table 4, Mr. Denney only adjusts for items (1), (3) and (4).

Remaining Portions of the Triennial Review Order, Ind. URC, Cause No. 42857, Issue 3 (January 11, 2006), at p. 16. (Footnotes omitted.)

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A. Mr. Denney’s “43-08 Adjustment”

Q. PLEASE DESCRIBE MR. DENNEY’S “43-08 ADJUSTMENT.”

A. In his “43-08 Adjustment,” Mr. Denney seeks to adjust the Qwest business line data by including only the “used” channels for Qwest high-capacity services (e.g., ISDN-PRI). In order to make this adjustment, Mr. Denney utilizes data Qwest provided in response to the Commission’s bench request no. 3.

Q. IS THIS ADJUSTMENT APPROPRIATE?

A. No. As discussed earlier in my testimony, the FCC’s *TRRO* rules (47 CFR § 51.5) state that ILECs should count “each 64 kbps-equivalent as one line,” and that “a DS1 line corresponds to 24 64 kbps-equivalents, and therefore 24 ‘business lines.’” Therefore, Mr. Denney’s adjustment—to include only the voice channels “actually used” for each high-capacity service—is contrary to the requirements of the *TRRO*.

Q. EVEN IF MR. DENNEY’S ADJUSTMENT WERE JUSTIFIED, IS THERE AN ADDITIONAL PROBLEM WITH HIS CALCULATION?

A. Yes. Even if Mr. Denney were correct in attempting to count only actual “in-service” digital business channels in his count of switched business lines, the value that he elected to use does not capture actual digital business channels in service associated with the relevant wire center.

Q. WHY IS THIS THE CASE?

A. In many instances, an ISDN-Primary Rate (“ISDN-PRI”) customer, such as an Internet Service Provider (“ISP”), will order service originating in one wire center,

1 while the actual ISDN stations associated with the service are located in a different
2 wire center, with the two locations linked by DS1 interoffice transport.

3
4 For example, an ISP located in the Portland Capitol wire center could order ISDN-
5 PRI service out of the Portland Capitol wire center to serve customers located in the
6 Portland Alpine wire center. In this example, the active *digital channels* (up to 24)
7 associated with the ISDN-Primary Rate service would be tracked by Qwest's
8 systems as being in the *Portland Alpine* wire center, even though the ISDN-PRI
9 DS1 *facility* is provided to the ISP in the *Portland Capitol* wire center, and is
10 tracked as such. Since Qwest and other RBOCs file the ARMIS 43-08 data with the
11 FCC on a *statewide* basis, and not on a "wire center" basis, this tracking issue
12 would not affect the actual "in-service" digital business channel count at the
13 statewide level. However, at the wire center level, this may cause a mismatch of
14 the ISDN-PRI service "facility" and the associated "in-service channels." In my
15 example, the DS1 facility associated with the ISDN-PRI service would be included
16 in the *Portland Capitol* wire center, while the active digital channels would be
17 included in the *Portland Alpine* wire center. Mr. Denney's adjustment
18 methodology would include all of the actual digital channels in the Portland Alpine
19 wire center, even though they should be counted in the Portland Capitol wire center.

20
21 **Q. HOW COULD THIS PROBLEM BE RESOLVED?**

22 A. A more appropriate way to quantify "in-service" digital business channels
23 (assuming Mr. Denney's "adjustment" were to comport with the *TRRO*, which it
24 does not) would be to apply the statewide ratio of in-service digital business
25 channels to the number of DS1 or DS3 digital business switched facilities in the
26 relevant wire center. This ratio would ensure that "in-service" digital business
27 service channels were attributed to the "home" wire center.

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B. Mr. Denney's Removal of Residential UNE-L Lines

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4 **Q. IN HIGHLY-CONFIDENTIAL TABLE 4, DOES MR. DENNEY ACTUALLY**
5 **REMOVE RESIDENTIAL UNE-L LINES?**

6 A. No. As I described earlier in my testimony, Mr. Denney claims that residential
7 UNE-L lines should be removed from the total UNE-L lines. However, he does not
8 perform a calculation to remove these lines.

9

10 **Q. WHY DOES MR. DENNEY NOT REMOVE RESIDENTIAL UNE-L LINES**
11 **FROM THE TOTAL UNE-L LINES?**

12 A. Mr. Denney states that he does not remove these residential lines because “this data
13 is difficult to obtain.”³¹ Of course, the non-availability of such UNE-L data is
14 precisely one of the reasons why *the FCC requires the inclusion of all UNE loops*
15 *in the TRRO business line counts*. Neither Qwest, nor any other carrier (except the
16 carrier ordering the service), has the ability to determine whether a UNE loop
17 serves a residential or business customer. As noted earlier, specific residential and
18 business UNE loop data is not “created for other regulatory purposes,” and thus is
19 not part of “UNE figures which must also be reported.”³²

20

21 Of course, even if Mr. Denney had been able to make an adjustment to the UNE
22 loop data, it would have represented a violation of the FCC's *TRRO* rules.

23

³¹ Joint CLECs/1, Denney/29.

³² See *TRRO*, ¶ 105.

1 **Q. MR. DENNEY ASKS THE COMMISSION TO REQUIRE “QWEST AND**
2 **THE JOINT CLECs TO WORK TOGETHER TO ESTABLISH A PROCESS**
3 **TO REASONABLY ESTIMATE AND REMOVE THE NUMBER OF**
4 **RESIDENTIAL LINES SERVED OVER UNBUNDLED LOOPS.”³³ IS THIS**
5 **APPROPRIATE?**

6 A. No. As I have previously stated, any removal of residential UNE loops counts from
7 the business line totals for Oregon wire centers would run directly contrary to the
8 requirements of the *TRRO*. CLECs have made this same appeal in other states,
9 including Washington, and it has been uniformly rejected.

10

11 **C. Mr. Denney’s Removal of Non-switched UNE-L lines**

12

13 **Q. DOES MR. DENNEY ATTEMPT TO REMOVE NON-SWITCHED UNE**
14 **LINES?**

15 A. Yes. Mr. Denney states that “carriers such as Covad purchase unbundled loops for
16 purposes of offering DSL services,”³⁴ and that these loops should be removed from
17 the UNE loop counts. While Mr. Denney does attempt to remove some non-
18 switched UNE loops, he provides no information as to how the number of non-
19 switched loops was derived.

20

21 **Q. IS MR. DENNEY’S REMOVAL OF NON-SWITCHED LOOPS**
22 **APPROPRIATE?**

23 A. No. As demonstrated earlier in my testimony, the FCC’s *TRRO* rules clearly state
24 that *all* UNE loops must be included in the switched business services line counts.

³³ Joint CLECs/1, Denney/29.

³⁴ Joint CLECs/1, Denney/29.

1 Not one state commission that has considered *TRRO* wire center data has accepted
2 such an adjustment, as Mr. Denney's Table 5 shows. Further, even if such an
3 adjustment were appropriate, Mr. Denney has provided no support for his count of
4 non-switched UNE-L lines.

5
6 **D. Mr. Denney's UNE-L "Used Capacity" Adjustment**

7
8 **Q. DOES MR. DENNEY "ADJUST" QWEST'S COUNT OF UNE LOOPS TO**
9 **ESTIMATE THE "USED CAPACITY" OF THE DS1 AND DS3 UNE LOOPS**
10 **INCLUDED IN THE COUNT?**

11 A. Yes. Mr. Denney has attempted to calculate the number of "used" digital channels
12 for DS1/DS3 UNE loops in each wire center. He develops the number of "used"
13 channels based on the use of a "high-capacity lines in use factor."³⁵

14
15 **Q. IS THIS ADJUSTMENT APPROPRIATE?**

16 A. No. Mr. Denney's calculation is directly contrary to the requirements of FCC
17 Rule 51.5 and paragraph 105 of the *TRRO* (all UNE loops should be included in the
18 business line count) and Rule 51.5(3) (each 64-kbps channel in a high-capacity
19 digital line should be counted as a separate business line, and "a DS1 line
20 corresponds to 24 64-kbps equivalents, and therefore to 24 business lines"). As Mr.
21 Denney's own Table 5 illustrates, only the North Carolina Commission has found
22 that digital UNE loop "in-service" channels should be counted, while all of the
23 other state commission orders that he cited specify that all channels in a digital
24 UNE loop should be counted, whether or not all channels are actually "in service."

25

³⁵ Joint CLECs/1, Denney/29.

1 **E. The Impact of Mr. Denney's Adjustments**

2
3 **Q. IF MR. DENNEY'S ADJUSTMENTS WERE APPROPRIATE (WHICH**
4 **THEY ARE NOT), WHAT IMPACT WOULD THESE ADJUSTMENTS**
5 **HAVE ON THE QWEST TRRO DATA?**

6 A. Even based on the data in Mr. Denney's Highly-Confidential Table 4, there would
7 still be *no effect* on the non-impairment of DS1/DS3 loops in the Portland Capitol
8 wire center. This is so because even with Mr. Denney's adjustments, the number of
9 switched business lines at the Portland Capitol wire center exceeds the FCC's
10 60,000 line threshold. The only impact that Mr. Denney's adjustments would have
11 are in the Bend and Portland Alpine wire centers, both of which would migrate
12 from Tier 2 to Tier 3 status for purposes of interoffice transport.

13
14 However, it is apparent that Mr. Denney has relied on his ICONN analysis, rather
15 than his adjustments to Qwest data, as the basis for the Joint CLECs'
16 recommendations as delineated in Table 1 of Mr. Denney's testimony.
17 Nonetheless, just as Mr. Denney's ICONN analysis is fatally flawed and should be
18 rejected, his adjustments to Qwest's business line data should also be rejected, for
19 the reasons I have discussed above. The assumptions on which Mr. Denney bases
20 his calculations are contrary to the clear and unambiguous directives of the FCC, as
21 well as to the findings of most other state commissions that have addressed these
22 issues. The data that Qwest has submitted is fully consistent with the *TRRO* and the
23 FCC's associated rules, and thus the Commission should rule as such.

24
25

1 **VIII. PROCESS FOR UPDATES TO WIRE CENTER LIST**

2
3 **Q. WILL YOU ADDRESS EACH OF MR. DENNEY'S RECOMMENDATIONS**
4 **REGARDING THE PROCESS FOR MAKING FUTURE UPDATES TO**
5 **THE WIRE CENTER LIST?**

6 A. No. Ms. Albersheim addresses the bulk of Mr. Denney's testimony regarding the
7 process for updating to Qwest's non-impaired wire center list. However, there is
8 one issue Mr. Albersheim addresses that I would like to expand on, which pertains
9 to updates to business line counts.

10
11 **Q. MR. DENNEY STATES THAT "CLECs SHOULD BE INFORMED WHEN**
12 **A WIRE CENTER IS WITHIN 5,000 LINES, OR WITHIN 1 FIBER**
13 **COLLOCATOR, OF CHANGING DESIGNATION."³⁶ IS THIS**
14 **REASONABLE?**

15 A. No. It is not reasonable, practical or useful for Qwest to inform CLECs when a
16 wire center is within 5,000 lines of changing its non-impairment designation. First,
17 as Ms. Albersheim states, this is a reporting burden that was not contemplated in the
18 FCC's *TRRO*, and there is no reason to add this administrative burden upon
19 Qwest.³⁷

20
21 Second, the business line counts are based on ARMIS data. As I discussed above,
22 ARMIS data is updated once a year, and the results are released each April. Qwest
23 does not maintain updated ARMIS 43-08 reports or monitor Report 43-08 business
24 line counts throughout the year. Thus, any update to show that a wire center was

³⁶ Joint CLECs/1, Denney/34.

³⁷ Ms. Albersheim also notes no state commission has ordered an ILEC to provide advance notice.

1 within 5,000 lines of non-impairment status would only occur once a year, and
2 would be of questionable value to a CLEC.

3
4 Third, even if Qwest were to notify CLECs that a wire center was within 5,000
5 lines of non-impaired status, there is no guarantee that the wire center would ever
6 reach that threshold. Indeed, in some wire centers, Qwest is losing lines, and this
7 trend may continue as intermodal competition (e.g., wireless, VoIP) increases.

8
9 If a CLEC took action (e.g., adding investment) based on an advance notice,³⁸ and it
10 then learned the following year that the *TRRO* “business lines” in the particular
11 wire center did not increase to meet the threshold, the CLEC would have made a
12 poor business decision to invest significant capital in that wire center (to its
13 investors’ detriment), especially when low-cost UNEs would have continued to be
14 available. In such a case, Qwest would have gone to extra work and expense to
15 provide the “advance notice,” and the CLEC would have taken action on the
16 advance notice that was not even necessary. In a situation like this, nobody would
17 win.

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23

³⁸ I understand that in the recent Utah *TRRO* hearing, Mr. Denney suggested that CLECs may decide to invest in a build-out of bypass loop facilities in the “close to the threshold” wire centers.

1 **IX. CONCLUSION AND RECOMMENDATION**

2
3 **Q. WHAT ACTION SHOULD THE COMMISSION TAKE IN THIS**
4 **PROCEEDING?**

5 A. The Commission should reject each of Mr. Denney’s adjustments to the Qwest
6 *TRRO* business line data. These adjustments are contrary to the clear requirements
7 of the *TRRO*.

8
9 Instead, the Commission should find that the business line data that I have
10 presented in Highly-Confidential Exhibit Qwest/6, along with the fiber collocation
11 data that Ms. Torrence has presented, support the following non-impairment
12 determinations:

- 13
- 14 • The Portland-Capitol wire center meets the non-impairment standard for
15 DS1 and DS3 unbundled loops;
 - 16 • Four Oregon wire centers—Eugene 10th Avenue, Medford, Portland
17 Capitol and Salem State (Main)—meet the FCC’s interoffice transport
18 threshold for “Tier 1” non-impairment status; and
 - 19 • Three Oregon wire centers—Bend, Portland Belmont, and Portland
20 Alpine—meet the FCC’s interoffice transport threshold for “Tier 2” non-
21 impairment status.

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

24 A. Yes, it does.

25

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1251

**IN THE MATTER OF THE INVESTIGATION)
INTO QWEST WIRE CENTER DATA)
_____)**

REPLY TESTIMONY

OF

RACHEL TORRENCE

ON BEHALF OF

QWEST CORPORATION

June 16, 2006

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1 **III. QWEST’S PROCESS IS SOUND AND OBJECTIVELY APPLIED**

2
3 **Q. PLEASE COMMENT ON MR. DENNEY’S PROCESS FOR DETERMINING**
4 **WIRE CENTER TIER DESIGNATION?**

5 A. Surprisingly, Mr. Denney’s and the Joint CLECs’ process for determining wire center tier
6 designation relies substantially on evidence that Qwest has provided. At page 12 of his
7 testimony, Mr. Denney states the following:

8 First, I looked at the carriers Qwest claimed were fiber-based collocators in each
9 office and in most cases attempted to contact these carriers to see if they could
10 verify their status. Second, I looked at the information Qwest provided such as:
11 whether the carrier affirmatively told Qwest it was a fiber-based collocator, and
12 I reviewed the results of Qwest’s field verification.
13

14 In essence, the Joint CLECs followed Qwest’s same process and used the evidence that
15 Qwest presented as the basis for their determination and their final conclusions.

16 However, beyond the testimony filed in this docket (admittedly based on Qwest’s data),
17 and the Joint CLECs claims that they “*attempted*” (emphasis added) to contact carriers,
18 the Joint CLECs have not provided any independent evidence regarding the number of
19 fiber-based collocators in any wire center in Oregon. Despite the fact that they were
20 allowed to view Qwest’s collocator information, Mr. Denney’s testimony consists almost
21 exclusively of his critiques of Qwest’s processes and evidence.
22

23 **Q. PLEASE COMMENT ON MR. DENNEY’S CLAIMS AT PAGE 9 OF HIS**
24 **TESTIMONY THAT QWEST PROVIDED ADDITIONAL INFORMATION IN**
25 **RESPONSE TO THE JOINT CLECs’ DATA REQUESTS.**

1 A. Mr. Denney's claims are exaggerated. In responding to the Joint CLECs' data requests,
2 Qwest merely provided back-up documents for the information that was already included
3 in my testimony.

4 In my direct testimony, I stated that Qwest had sent a letter on March 29, 2005 to CLECs
5 advising them of the particular wire centers where Qwest's records showed them to have
6 a fiber-based collocation, as reflected by the data on the initial wire center list. In that
7 March 29, 2005 letter, Qwest requested that the receiving CLEC make sure its records
8 agreed with Qwest's records and, if there were any discrepancies, the CLEC should
9 provide Qwest with documentation regarding the collocation in question. As Mr. Denney
10 acknowledges at page 9 of his testimony, Qwest provided a copy of that letter (a letter
11 that the Joint CLECs should have already had in their possession). Thus, this letter was
12 not new information.

13 In addition, Qwest provided to the CLECs the spreadsheets/worksheets that it used to
14 document the collocations physical verifications. The information provided on these
15 worksheets, once corroborated by other data, substantiated the existence of fiber-based
16 collocators that Qwest used in determining which wire centers are non-impaired and that
17 I included in my direct testimony. Moreover, the Joint CLECs could have independently
18 obtained much of the information about the existence and number of fiber-based
19 collocators, as well as the FCC criteria detailed in these worksheets. For example,
20 although the CLECs have previously argued that they do not have access to collocations
21 of other CLECs in a wire center, the Joint CLECs could have sought to conduct an

1 independent verification similar to that which Qwest performed.¹ Furthermore, the Joint
2 CLECs apparently chose not to approach Qwest regarding expanded access to Qwest
3 wire centers in order to perform such verifications. Clearly, this information was not
4 exclusively available only through Qwest, nor was Mr. Denney under any obligation to
5 use solely Qwest data in determining the number of fiber-based collocators in the
6 applicable Oregon wire centers, nor was he forced to rely exclusively on Qwest's
7 investigation process.

8
9 **Q. IN WHAT WAYS DOES QWEST DISAGREE WITH MR. DENNEY'S**
10 **CONCLUSIONS RESULTING FROM THE JOINT CLECs' REVIEW OF**
11 **QWEST'S FIBER-COLLOCATION DATA?**

12 A. Mr. Denney's conclusions are significantly flawed in that they essentially ignore vital
13 issues that significantly affect Qwest's ability to obtain the required data. Qwest can only
14 do so much to validate the existence of fiber-based collocators in a wire center. Although
15 these collocators are in Qwest wire centers, Qwest does not have, nor does it need, first-
16 hand information as to how a collocator is using its space. This is particularly so if that
17 collocator is not purchasing services from Qwest. It is only logical, therefore, to assume
18 that if (1) a carrier is occupying a collocation space, (2) it is being billed, and is paying,
19 for that space as well as for power to that space, (3) it has fiber facilities entering and

¹ Collocations in a Qwest wire center are contained in the same general vicinity and in close proximity to one another. Given the open views into collocations in such close proximity to one another, it is possible for LEC/CLEC personnel to observe the presence of other carriers and make determinations as to whether a given collocation is fiber-fed and operational without violating security agreements. Furthermore, CLECs commonly use contract labor for work in their collocations, and thus it is not unusual to have one contractor working for multiple CLECs, and in multiple collocations, in a given wire center, again facilitating validation of operational fiber collocations.

1 terminating in that space, and (4) those fiber facilities leave the central office and do not
2 connect with Qwest's network, that carrier *is* a fiber-based collocator as defined in the
3 *TRRO*. Obviously, since Qwest cannot access those carriers' networks to verify this fact,
4 it is only the carriers themselves who are in a position to definitively affirm their network
5 architectures and their status as fiber-based collocators. Notably, numerous carriers have
6 affirmed their status. Others, however, have chosen not to respond, and still others have
7 affirmed their use of a fiber network within a collocation, but have questioned the FCC's
8 definition of a fiber-based collocator.

9 Accordingly, by ignoring these facts, Mr. Denney erroneously:

10 1) takes issue with the fact that Qwest counts carriers as fiber-collocators in the
11 absence of those carriers' affirmative responses to Qwest's March 29, 2005 letter
12 seeking collocation validation,

13 2) questions whether Qwest's verification process was objectively performed, and

14 3) questions the counting of fiber-based collocations when the subject CLEC
15 failed or refused to verify the pertinent information or disagreed with Qwest's
16 determination.

17
18 **Q. IS IT APPROPRIATE FOR QWEST TO COUNT A CLEC AS A FIBER-BASED**
19 **COLLOCATOR EVEN IF IT DID NOT AFFIRMATIVELY RESPOND TO**
20 **QWEST'S LETTER REQUESTING VALIDATION?**

21 A. Absolutely. Mr. Denney apparently takes issue with the fact that Qwest counted carriers
22 as fiber-collocators in the absence of those carriers' affirmative response to Qwest's

1 March 29, 2005 letter to CLECs seeking validation of the existence of their fiber-based
2 collocations. Mr. Denney, however, fails to take into account the fact that Qwest has no
3 control over a CLEC's decision whether to validate the collocation or to refuse to provide
4 the pertinent information, and that some CLECs may have concluded it was not in their
5 best interests to cooperate, and thus failed to respond to Qwest's requests for validation.
6 Qwest made good faith attempts to secure validation from the carriers that it has
7 identified, based on its own internal information and records, as fiber-based collocators,
8 but perhaps not too surprisingly, it met with resistance from some CLECs.² Thus, Qwest
9 relied on validation which was provided by some carriers, and, when validation was not
10 forthcoming, it necessarily was compelled to rely on other means, such as its inventory
11 systems, billing systems, and physical field verifications. Qwest believes this process
12 was thorough and comprehensive, and that it resulted in the best data that it could
13 reasonably obtain under the circumstances, and thus yielded an accurate result.

14 Finally, given the lack of any clear regulatory obligation for a carrier to declare itself as a
15 fiber-based collocator, there could be a strong incentive for some CLECs to attempt to
16 "game" the system by not responding to such requests for confirmation. Accordingly, a
17 final count of fiber-based collocators based solely, or at least substantially, on a definitive
18 confirmation by each CLEC, as Mr. Denney seems to suggest, would not make any sense,
19 and thus this Commission should reject such suggestions.

² While on the witness stand at the hearing for Utah Public Service Commission Docket 06-049-40, dealing with the same general issues being addressed in this docket, Mr. Denney himself admitted that the Joint CLECs had also encountered resistance to their inquiries in the course of their fiber-based collocator investigation.

1 **Q. HOW DOES QWEST RESPOND TO MR. DENNEY’S CRITICISM OF THE**
2 **INFORMATION PROVIDED IN RESPONSE TO DATA REQUESTS?**

3 A. At page 10 of his testimony, Mr. Denney inaccurately summarizes the correspondence
4 between Qwest and the CLECs who received the March 29, 2005 letter asking them to
5 validate their collocation information. Highly-Confidential Exhibit Qwest/16 contains a
6 table that accurately summarizes the correspondence between Qwest and carriers that
7 Qwest had identified as being fiber-based collocators in Oregon wire centers. Highly-
8 Confidential Exhibit Qwest/16 is supported by Highly-Confidential Attachment A,³
9 which contains copies of the actual correspondence between Qwest and seven of the eight
10 responding carriers in Oregon. The eighth carrier responded telephonically, and, as such,
11 no documents are available.

12 It must be noted, however, that the responses that Qwest gathered in response to its
13 March 29, 2005 letter to the CLECs were merely *one aspect* of the evidence that Qwest
14 presented in support of its list of fiber-based collocators.

15
16 **Q. IS IT APPROPRIATE FOR QWEST TO COUNT A CLEC AS A FIBER-BASED**
17 **COLLOCATOR EVEN IF IT MAY HAVE “DISAGREED” WITH QWEST’S**
18 **ASSESSMENT OF IT AS A FIBER-BASED COLLOCATOR?**

19 A. Yes, particularly when Qwest’s determination that the CLEC is a fiber-based collocator is
20 substantiated by other credible evidence. For example, Mr. Denney states on page 10 of

³ Attachment A to Highly-Confidential Exhibit Qwest/16 was submitted as a response to the Commission’s bench request no. 3 in this docket, and was later supplemented to include attachments that had been inadvertently omitted, as well as the addition of a responding carrier that, while operating a fiber-based collocation in Oregon, responded only regarding its collocations in another state.

1 his testimony that “one carrier specifically instructs Qwest not to count its collocations as
2 fiber-based collocations until the carrier has an opportunity to confirm; another carrier
3 disputes that it should be counted a fiber based collocator.” He then takes issue with the
4 fact that Qwest counted this carrier as fiber-based collocator. What Mr. Denney fails to
5 acknowledge, however, is that one of the carriers at issue admitted that it has a
6 collocation with operational fiber not provided by Qwest. The dispute with that
7 particular carrier appears to be about what the FCC contemplated as qualifying fiber-
8 based collocation arrangements, which is a matter best taken up with the FCC. Qwest
9 believes such an admission about the literal criteria that the FCC set forth in the *TRRO*
10 fully supports this particular carrier’s designation as a fiber-based collocator.

11 Confidential Exhibit Qwest/17 is a string of e-mails addressing this particular challenge,
12 along with Qwest’s response to the CLEC (passages in question have been underlined
13 and highlighted in yellow).

14 The other carrier to which Mr. Denney refers (at page 10 of his testimony) did ask for
15 time to confirm its collocations. However, what Mr. Denney ignores in is his testimony
16 is that Qwest *physically verified* those collocations subsequent to this correspondence,
17 and that this carrier never contacted Qwest with the results of its confirmation efforts.

18 Accordingly, in light of the further evidence as to the existence of fiber-based collocators,
19 and in the absence of any evidence to the contrary, it is entirely appropriate for Qwest to
20 include “disputed” collocations as part of the final count. In other words, merely because
21 a CLEC disputes Qwest’s designation of it as a fiber-based collocator should not, in and
22 of itself, be a basis for Qwest to not include that CLEC as a fiber-based collocator at a

1 wire center, especially when there is sufficient additional evidence to show that such
2 CLEC is a fiber-based collocator as the FCC defined in the *TRRO*.

3 Finally, absent from Mr. Denney's testimony is any reference to the fact that Qwest did
4 indeed remove one fiber-based collocation from the wire center list after the carrier at
5 issue disputed it, and Qwest's further research confirmed that the CLEC was not a fiber-
6 based collocator as the FCC defined in the *TRRO*. Qwest's removal of this collocation
7 illustrates its commitment to include only valid collocators in its final list of fiber-based
8 collocators.

9
10 **Q. WERE QWEST'S PHYSICAL FIELD VERIFICATIONS OF FIBER-BASED**
11 **COLLOCATORS CONDUCTED IN AN OBJECTIVE MANNER?**

12 **A.** Absolutely. Mr. Denney seems to accuse Qwest (at pages 10 and 11 of his testimony) of
13 attempting to come to predetermined outcomes when he states that Qwest was
14 "encouraging its employees to error on the side of finding fiber-based collocations." He
15 then proceeds to quote from an introductory passage, which he takes out of context, from
16 the instruction letter that Qwest sent to its interconnection managers as some sort proof
17 that Qwest was trying to influence the outcome. However, if one reads the instruction
18 letter in its entirety, it becomes abundantly clear that a brief explanation as to why Qwest
19 field personnel were being asked to perform a task outside of their day-to-day functions
20 was entirely appropriate.⁴ In addition, these Qwest personnel were given specific

⁴ It has been my experience that if employees are given a clear understanding regarding why they are being asked to complete a given task, especially one that is not part of their usual day-to-day responsibilities, they tend to perform better and produce a better product.

1 instructions regarding what data to validate. I believe Mr. Denney's apparent accusations
2 that Qwest employees were "encouraged to error" are inflammatory and insulting, and, at
3 a minimum, they are simply wrong. Confidential Exhibit Qwest/18 is a copy of the letter
4 in question.

5

1 **IV. QWEST'S PROCESS YIELDS AN ACCURATE RESULT**

2
3 **Q. PLEASE RESPOND TO MR. DENNEY'S CLAIMS REGARDING THE**
4 **ACCURACY OF QWEST'S CONCLUSIONS.**

5 A. Mr. Denney unfairly criticizes the process that Qwest used to compile its data, and he
6 questions the accuracy of Qwest's list of qualifying wire centers. For example, Mr.
7 Denney takes issue with Qwest's use of the collocation verification worksheets, as well
8 as with the overall accuracy of Qwest's filings with the FCC. However, his testimony is
9 once again misleading, and it certainly does not present an accurate view of the situation.

10
11 **Q. PLEASE RESPOND TO MR. DENNEY'S CRITICISM OF QWEST'S**
12 **COLLOCATION VERIFICATION.**

13 A. The process that Qwest uses to physically validate the existence of fiber-based
14 collocators is sound and yields an accurate result. As evidence, Qwest's efforts to
15 ascertain an accurate count of existing fiber-based collocators are extensively
16 documented in the worksheets that Qwest provided in its response to the Joint CLECs'
17 data request no. 46 and which are presented as Highly-Confidential Exhibit Qwest/19.

18
19 **Q. PLEASE RESPOND TO MR. DENNEY'S CHALLENGE TO THE NUMBER OF**
20 **FIBER-BASED COLLOCATORS IN THE PORTLAND BELMONT WIRE**
21 **CENTER.**

22 A. At page 11 of his testimony, Mr. Denney cited an example in the Portland Belmont wire
23 center where Qwest's verification worksheet did not support the inclusion of a fiber-

1 based collocator as stated in Exhibit Qwest/10 to my direct testimony (which is Exhibit
2 Qwest/7). In this particular and singular instance, I agree with Mr. Denney.

3 Highly-Confidential Exhibit Qwest/20 is the collocation verification worksheet for the
4 Portland Belmont wire center (it was also included in Qwest's response to the Joint
5 CLECs' data request no. 46). Clearly, the worksheet shows that one collocator does not
6 have any fiber facilities to its collocation. It also clearly shows that the wire center had
7 been accurately designated as a Tier 2 wire center. The worksheet accurately documents
8 the number of fiber-based collocators, further corroborating the appropriateness and
9 effectiveness of Qwest process.

10
11 **Q. EVEN THOUGH THE VERIFICATION WORKSHEETS ARE ACCURATE,**
12 **HOW IS IT THAT THE PORTLAND BELMONT WIRE CENTER WAS**
13 **EVIDENTLY MIS-DESIGNATED?**

14 A. Unfortunately, an Excel spreadsheet pivot table error failed to drop the collocation from
15 the list in Highly-Confidential Exhibit Qwest/10, whereupon this collocation was
16 mistakenly counted, and thus this mistake erroneously changed the Belmont's wire center
17 designation from a Tier 2 wire center to a Tier 1 wire center. Further, during my final
18 review of my direct testimony, I unfortunately failed to notice the error. As the
19 designation on the collocation verification worksheet makes clear, the Portland Belmont
20 wire center should have *remained a Tier 2* wire center. Highly-Confidential Exhibit
21 Qwest/21 is the modified list of wire centers containing the adjustment to the Portland
22 Belmont wire center.

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Q. HOW DOES QWEST RESPOND TO MR. DENNEY’S CHALLENGES TO QWEST’S INCLUSION OF TWO FIBER-BASED COLLOCATORS IN THE MEDFORD WIRE CENTER?

A. At pages 11 and 12 of his testimony, Mr. Denney mistakenly challenges Qwest’s inclusion of two fiber-based collocators in the Medford wire center. First, he states that one collocator is in the process of bankruptcy. However, the collocation was verified as having been both fiber-based and operational as of the effective date of the *TRRO*, March 11, 2005, and at the time that Qwest submitted list of fiber-based collocators. Furthermore, Qwest has not been formally notified as to changes to the current status of the collocation, nor has Qwest been notified as to whether or not the bankruptcy was discharged (or, as is quite common, whether the carrier and collocation at issue will be taken over by another carrier). Regardless, the main point is that the collocation was operational on the effective date of the *TRRO*, March 11, 2005.

Mr. Denney challenges the inclusion of the second collocation in the Medford wire center on the basis that the collocator at issue claimed it did not “own” its fiber, but rather, obtained it from Qwest and other carriers. However, as I discussed earlier in my testimony, this carrier’s admission that it used fiber obtained from a carrier other than Qwest is sufficient evidence to rebut its dispute on this element of the fiber-based collocator requirement, and thus the carrier’s admission substantiated its being counted as a fiber-based collocator. (See Highly-Confidential Exhibit Qwest/17.)

1 Accordingly, given that the conditions that the *TRRO* set forth were met in both
 2 instances, and that Mr. Denney does not offer any evidence to the contrary, Qwest stands
 3 by its inclusion of these two fiber-based collocators in the Medford wire center, and thus,
 4 the designation of the Medford wire center as a Tier 1 wire center.

5 **Q. WHAT IS QWEST’S RESPONSE TO MR. DENNEY’S CLAIMS ABOUT THE**
 6 **OVERALL ACCURACY OF THE NUMBER OF WIRE CENTERS?**

7 A. In my direct testimony, I state repeatedly that Qwest took a very cautious and
 8 conservative approach when it compiled its list of non-impaired wire centers. I detailed
 9 the process used in compiling data on fiber-based collocators. I have presented evidence
 10 that supports the designation of collocators as fiber-based, and subsequently, the tier
 11 designation of the wire centers containing those fiber-based collocators. The resulting
 12 list of validated fiber-based collocators was used in determining the list of non-impaired
 13 wire centers. With the sole adjustment to the Portland Belmont wire center, Qwest stands
 14 by its Oregon list of non-impaired wire centers as being accurate.

15 Table 1 below is a side-by-side comparison of Qwest’s wire center tier designations in
 16 Oregon with those of the Joint CLECs:

17 **Table 1:**

Wire Center	CLLI(8)	Wire Center Designations	
		QWEST	JT CLECs
Eugene 10th Ave	EUGNOR53	T1	T2
Medford	MDFDOR33	T1	T3
Portland Capitol	PTLDOR69	T1	T1
Portland Belmont	PTLDOR13	T2	T2
Salem Main	SALMOR58	T1	T2
Bend	BENDOR24	T2	N/A

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In short, Qwest and the Joint CLECs agree on the tier designation for both the Portland Capitol and the Portland Belmont wire centers. However, although Mr. Denney challenges Qwest’s tier designation for the Eugene 10th Avenue, Salem Main and (as discussed above) Medford wire centers, Mr. Denney fails to present any evidence beyond the unsubstantiated claims (at page 13) that he “verified fiber-based collocators.” Notably, Mr. Denney is silent on the process that the Joint CLECs used to verify fiber-based collocators. He is also completely silent regarding the Bend wire center.

Q. HOW CREDIBLE ARE MR. DENNEY’S CONCLUSIONS REGARDING TIER DESIGNATIONS?

A. As I stated, Qwest, with the adjustment to the Portland Belmont wire center, stands by its fiber-based collocator wire center designations in Oregon. Mr. Denney and the Joint CLECs have taken isolated pieces of Qwest’s evidence out of context, and thus have attempted to use them to justify the removal of legitimate fiber-based collocators in Oregon from Qwest’s Oregon wire center list. The Joint CLECs, however, do not present any independent evidence to support their challenge of the validity of Qwest’s information, nor do they sufficiently substantiate their request to remove collocators from the Oregon list (with the exception of the collocator in the Portland Belmont wire center).

1 **V. ADVANCE NOTICE TO CLECs WHEN A WIRE CENTER IS**
2 **WITHIN ONE FIBER COLLOCATOR OF CHANGING DESIGNATION IS**
3 **UNNECESSARY**

4
5 **Q. PLEASE RESPOND TO THE JOINT CLECs’ PROPOSED REQUIREMENT (AT**
6 **PAGES 33 AND 33 OF MR. DENNEY’S TESTIMONY) THAT QWEST SHOULD**
7 **GIVE ADVANCE NOTICE WHEN A WIRE CENTER IS WITHING ONE FIBER**
8 **COLLOCATOR OF CHANGING ITS TEIR DESIGNATION.**

9 A. As Ms. Albersheim stated in her reply testimony, the Joint CLECs’ proposed requirement
10 that Qwest give advance notice when a wire center is within one fiber-based collocator of
11 changing tiers is administratively burdensome. This is particularly so in light of the fact
12 that the threshold is not practically meaningful, especially since one additional collocator
13 would not necessarily indicate an imminent change in the wire center’s impairment
14 classification. Moreover, advance notice could also facilitate CLECs’ ability to take
15 “creative advantage” of the situation by possibly changing business plans and network
16 architectures to make it less likely that a wire center ever reaches a given threshold.

17
18 **Q. DOES THE *TRRO* CONTAIN A REQUIREMENT FOR ADVANCE NOTICE BY**
19 **ILECs AS WIRE CENTERS APPROACH A THRESHOLD?**

20 A. No. It is readily apparent that the FCC did not contemplate any such advance notice
21 since neither the *TRRO* nor the FCC’s associated implementation rules contain any such
22 requirement. Nor has any state commission required an ILEC to provide such advance
23 notice.

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Q. HOW MIGHT A CLEC TAKE CREATIVE ADVANTAGE OF A WIRE CENTER BEING WITHIN ONE FIBER-BASED COLLOCATOR OF CHANGING ITS TIER DESIGNATION?

A. It is certainly possible that if a wire center were within one fiber-based collocator of a change in impairment status, a given CLEC could “game” the system by purposely choosing to utilize alternative network architectures in the near term, such as CLEC-to-CLEC connections, rather than to establish a fiber-based collocation, all for the purposes of denying Qwest the ability to include the wire center on the non-impaired wire center list and/or hoping to potentially avoid an increase to the CLEC’s transport or loop costs.

Q. WHAT UNDUE ADMINISTRATIVE BURDEN WOULD ADVANCE NOTICE PLACE ON QWEST?

A. Qwest does not have any process in place that would “flag” a fiber-based collocator threshold (especially since there has not been any need to have such a process). A time- and labor-intensive tracking process would be the only current alternative. Furthermore, Qwest would have to implement an advance notice process. Implementing such processes would be costly and of no benefit to Qwest or its customers, including its wholesale (CLEC) customers. Moreover, given that all Tier 2 wire centers are by definition already *within one fiber-based collocator* of changing tier designation to Tier 1, I have to question the value of any such requirement. Not surprisingly, therefore, not only is there no such advance notice requirement in the *TRRO* or the FCC’s associated

1 implementation rules, but I am also not aware of any state commission that has required
2 any ILEC to provide such advance notice.

3 **VI. SUMMARY AND CONCLUSION**

4
5 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF YOUR TESTIMONY.**

6 A. Qwest's process for determining the number of fiber-based collocators in the affected
7 non-impaired Oregon wire centers is sound and is objectively applied. This process
8 yields an accurate list of non-impaired wire centers in the state of Oregon. Mr. Denney
9 on behalf of the Joint CLECs does not offer any evidence to the contrary. The Joint
10 CLECs reviewed Qwest's evidence and relied heavily on that evidence in forming their
11 conclusions. However, they have misinterpreted how Qwest used the evidence, ignored
12 pertinent circumstances, and subsequently reached flawed conclusions regarding the
13 number of fiber-based collocators in Oregon wire centers. They also fail to show any
14 valid reason why this Commission should take the unprecedented step of requiring Qwest
15 to provide advance notice when a wire center is within one fiber-based collocator of
16 changing its tier designation.

17
18 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

19 A. Yes it does. Thank you.
20
21
22

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1251

In the Matter of)
COVAD Communications Company,)
ESCHELON TELECOM of Oregon, Inc.,)
INTEGRA TELECOM OF OREGON, INC.,)
MCLEODUSA TELECOMMUNICATIONS)
SERVICES, INC., and XO)
COMMUNICATIONS SERVICES, INC.)
)
Request for Commission Approval of Non-)
Impairment Wire Center List.)

REPLY TESTIMONY OF

TERESA K. MILLION

FOR

QWEST CORPORATION

JUNE 16, 2006

**TESTIMONY OF TERESA K. MILLION
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EXECUTIVE SUMMARY

My name is Teresa K. Million. I am employed by Qwest Services Corporation, parent company of Qwest Corporation (“Qwest”), as a Staff Director in the Public Policy organization and I am testifying on behalf of Qwest. In my testimony, I respond to Joint CLEC witness Douglas Denney’s testimony regarding the nonrecurring charge (“NRC”) that Qwest proposes to charge for the work activities that Qwest must perform in the conversion of an Unbundled Network Element (“UNE”) circuit to a private line circuit. Qwest is required to perform these work activities in order to transition circuits purchased by Competitive Local Exchange Carriers (“CLECs”) from a UNE circuit to a private line circuit. This activity will take place in wire centers where the FCC-ordered criteria set forth in the FCC’s Triennial Review Remand Order (“*TRRO*”) and the FCC’s associated implementation rules has shown that CLECs are not “impaired” without access to DS1 or DS3 UNE loops, or DS1 or DS3 inter-office transport.

Qwest advocates the use of an existing tariff charge which provides a fair approximation for Qwest and the CLECs of the costs that Qwest will incur when performing the conversion work activities. Qwest is asking the Commission to recognize that Qwest will incur costs when performing the UNE-to-private line circuit conversions, is entitled to recovery of those costs, and thus has the right to assess such a charge for the work that it performs.

I. INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Teresa K. Million. I am employed by Qwest Services Corporation, parent company of Qwest Corporation (“Qwest”), as a Staff Director in the Public Policy organization and I am testifying on behalf of Qwest. In my position, I am responsible for directing the preparation of cost studies and representing Qwest’s costs in a variety of regulatory proceedings. My business address is 1801 California St., Room 4700, Denver, Colorado.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. On April 21, 2006, I filed direct testimony in this proceeding.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to Joint CLEC witness Douglas Denney’s testimony regarding the nonrecurring charge (“NRC”) that Qwest proposes to charge for the work activities that it must perform in the conversion of an Unbundled Network Element (“UNE”) circuit to a private line circuit. Qwest performs these work activities in transitioning circuits that must be converted from UNEs to private line circuits in wire centers that the FCC has deemed “non-impaired” pursuant to the FCC’s Triennial Review Remand Order (“*TRRO*”) and the FCC’s associated implementation rules. Qwest will utilize an existing NRC to recover a portion of the costs that it incurs when implementing these conversions.

1 **II. REPLY TO MR. DENNEY**

2 **Q. IS QWEST’S PROCESS FOR CONVERTING A UNE CIRCUIT TO A PRIVATE**
3 **LINE CIRCUIT TRANSPARENT TO THE CUSTOMER, AS MR. DENNEY**
4 **CLAIMS (AT PAGE 45) IT SHOULD BE?**

5 A. Yes. The process that Qwest has established for converting UNE circuits to private lines
6 is specifically designed to *ensure* that the conversion is transparent to both the end-user
7 customer and the CLEC serving that customer. However, it is important to note that this
8 particular process comes with a cost. While Mr. Denney claims that there is no change in
9 the “form, character or function” of the facility when a circuit converts from a UNE to a
10 private line, Mr. Denney is wrong.

11 Webster’s Dictionary defines “character” as an “essential quality; nature; kind or sort...”
12 and characteristic as “distinctive...a distinguishing trait, feature, or quality....”¹ Thus,
13 while it is true that the CLEC’s end-user customer’s *service* does not change in any way,
14 it is not that customer’s “service” that is the subject of the conversion. Rather, it is the
15 nature of the CLEC’s *product* that is changing. That is, the whole point of the conversion
16 is that the “character” of the product is changing from that of a wholesale UNE product
17 purchased only by CLECs through Interconnection Agreements (“ICAs”) to a tariffed
18 service purchased by CLECs, other interconnecting companies and Qwest’s retail
19 customers through commercial contracts. These two products are clearly distinguishable
20 from each other, not only by price and classification, but also by the customers to whom
21 they are available and by the differing ordering, maintenance and repair processes that

¹ Webster’s New World Dictionary, Simon and Schuster 1984.

1 attach to each of them. Because of this change in the nature of these circuits from UNE
2 products to private line services, and because these circuits are billed, inventoried and
3 maintained differently in Qwest's systems, Qwest must process them as an "order-out"
4 and an "order-in," and thus change the circuit identifiers ("circuit IDs") to move them
5 from one product category to the other. Circuit IDs identify in a number of Qwest's
6 systems, including the Trunk Record Keeping Inventory System ("TIRKS") database and
7 the Work Force Administration ("WFA") system, among other things, whether a circuit
8 is a UNE or a private line, what type of testing parameters apply, and which maintenance
9 and repair center is responsible for that circuit.

10 In order to ensure that the conversion process is transparent to the CLEC and its
11 customers' services, Qwest interjects a number of manual activities into the process so
12 that certain automated steps do not occur that could otherwise result in disruption of
13 those services. The purpose of many of the tasks included in the conversion process is to
14 avoid placing the CLECs' end-user customers at risk. To date, after more than 500
15 conversions involving this type of circuit ID change, Qwest is not aware of any
16 complaints from CLECs about customers whose service has been disrupted by this
17 conversion process. Therefore, Mr. Denney's attempts to emphasize "potential risks" in
18 Qwest's process to the CLECs' customers is merely a smokescreen and proves exactly
19 why Qwest undertakes those steps, thereby making the conversion transparent.

1 **Q. IS MR. DENNEY CORRECT WHEN HE ARGUES (AT PAGE 47) THAT**
2 **QWEST’S CONVERSION OF UNEs TO PRIVATE LINE CIRCUITS IS NOT**
3 **REQUIRED BY THE *TRRO*?**

4 A. No. For wire centers that the FCC has deemed to be “non-impaired,” Qwest is no longer
5 required to provide access to DS1 or DS3 UNE loops or inter-office transport. This FCC
6 determination in the *TRRO* means that Qwest is no longer required to price these services
7 at Total Element Long Run Incremental Cost (“*TELRIC*”) costs. UNEs are priced at
8 *TELRIC* costs, and thus, in order for Qwest to be able to price these services at
9 something other than *TELRIC*, *as the TRRO entitles it to do*, it is necessary for Qwest to
10 convert them to private line services. What this means from an operational standpoint is
11 that if a CLEC remains on Qwest’s facilities at the affected wire centers (instead of
12 disconnecting the UNEs and availing itself of alternative facilities), Qwest must convert
13 those UNEs to private line services. If Qwest were not allowed to convert the UNE
14 circuits to private line circuits, the FCC’s non-impairment findings in the *TRRO* would be
15 essentially rendered meaningless. In addition, if Qwest were to perform the activities
16 associated with a conversion, but were not allowed to charge the CLEC for those
17 activities, the cost burden would be unfairly shifted to Qwest and its end-user customers,
18 thereby placing Qwest at a disadvantage in a marketplace which the FCC has determined
19 to be competitive. Thus, to the extent that Qwest incurs costs to facilitate the CLEC’s
20 conversion from a UNE to a private line service, Qwest should be entitled to assess an
21 appropriate charge.

1 **Q. MR. DENNEY ASSERTS AT PAGE 54 OF HIS TESTIMONY THAT CHANGING**
2 **THE CIRCUIT ID IS MERELY A CONVENIENCE FOR QWEST. IS HE**
3 **CORRECT?**

4 A. No. As I explained in my direct testimony, FCC rules require that telephone carriers
5 accurately maintain records that track inventories of circuits. Specifically, 47 C.F.R.
6 32.12(b) and (c) provides as follows:

7 (b) The company’s financial records shall be kept with sufficient particularity to
8 show *fully* the facts pertaining to all entries in these accounts. The detail records
9 shall be filed in such manner as to be readily accessible for examination by
10 representatives of this Commission.

11 (c) The Commission shall require a company to maintain financial and other
12 subsidiary records in such a manner that specific information, of a type not
13 warranting disclosure as an account or subaccount, will be readily available.
14 When this occurs, or where the full information is not otherwise recorded in the
15 general books, the subsidiary records shall be maintained *sufficient detail to*
16 *facilitate the reporting of the required specific information*. The subsidiary
17 records, in which the full details are shown, shall be sufficiently referenced to
18 permit ready identification and examination by representatives of this
19 Commission [FCC]. (Emphasis added.)
20

21 Thus, Qwest is *required* to maintain subsidiary records in sufficient detail to align
22 specific circuits with the billing, accounting, and jurisdictional reporting requirements
23 related to the services that these circuits support. In other words, Qwest must be able to
24 distinguish for purposes of tracking and reporting its UNE products from its other
25 products, such as its tariffed private lined services. Qwest accomplishes this through the
26 use of circuit IDs and other appropriate codes, depending on the systems affected by the
27 requirement. Not only does changing the circuit ID facilitate the proper reporting of
28 these two products, as Qwest is required to do, but it also ensures that the CLEC will
29 receive support for testing, maintenance and repair from the appropriate Qwest centers.

1 Because the *TRRO* entitles Qwest to charge CLECs something other than TELRIC rates
2 for the DS1 and DS3 facilities provisioned out of non-impaired wire centers, Qwest must
3 re-characterize those facilities from UNEs to private line services. In order to sufficiently
4 maintain its subsidiary records to support its accounting, repair and maintenance for
5 UNEs versus its private line services, Qwest must have accurate circuit identifiers that
6 properly track circuits separately in systems such as TIRKS and WFA.

7
8 **Q. MR. DENNEY SUGGESTS AT PAGE 53 OF HIS TESTIMONY THAT THE FCC**
9 **REQUIREMENTS YOU CITE ABOVE DO NOT PRESCRIBE HOW QWEST IS**
10 **TO USE CIRCUIT IDENTIFIERS TO MAINTAIN ITS RECORDS. HOW DO**
11 **YOU RESPOND?**

12 A. Mr. Denney's suggestions ignore the fact that the circuit ID is Qwest's only means of
13 tracking the difference between UNEs and private lines in systems such as the TIRKS
14 database and WFA. These systems are used to inventory circuits and assign repair and
15 maintenance of the circuits to the appropriate Qwest centers. This is important because
16 the repair, testing and maintenance of circuits for UNEs and private lines are handled out
17 of different work centers. In the long run, Qwest is able to maintain, track and service all
18 of its customers, including CLECs and their end-user customers, better and more
19 efficiently if it is able to identify accurately the types of services and facilities it is
20 providing to these respective categories of customers. It would be grossly inefficient,
21 expensive and wasteful for Qwest to make changes to its myriad of legacy systems,
22 processes and tracking mechanisms, such as circuit IDs, in order to accommodate each
23 new regulatory nuance regarding how it offers its services to its customers and its

1 competitors. Qwest has already expended hundreds of millions of dollars to enhance and
2 modify its ordering, provisioning and inventory systems to be able to appropriately track
3 facilities it has been required to provide as UNEs. It should not now have to spend
4 millions more to modify its systems one more time in order to track these same facilities
5 yet another way. The costs associated with this type of system/process rework simply do
6 not make sense in a competitive environment, and such costs would place an unfair
7 burden on Qwest, especially when Qwest already has systems and identifiers in place to
8 track private line services.

9
10 **Q. AT PAGE 51 OF HIS TESTIMONY, MR. DENNEY EQUATES THE**
11 **CONVERSION OF DS1 AND DS3 UNEs TO PRIVATE LINE SERVICES WITH**
12 **THE CONVERSION OF UNE-P TO QPP. IS HIS COMPARISON**
13 **APPROPRIATE?**

14 A. No. As Qwest has explained in response to Mr. Denney in Utah, because of the nature of
15 Qwest's Qwest Platform Plus™ ("QPP") product the *loop portion* of the product is
16 identified by the telephone number for purposes of billing, maintenance and repair.
17 Therefore, because the telephone number does not change, nothing about the character,
18 form or function of the loop changes whether it is part of UNE-P or QPP and it can be
19 billed differently through the assignment of new universal service order codes
20 ("USOCs") without consideration for other systems or centers. Yet despite receiving this
21 same explanation in Utah, Mr. Denney continues to argue, at pages 52 and 53 of his
22 testimony, that Qwest has accomplished the transition from UNE-P to QPP without
23 changing circuit IDs. *There is no circuit ID* associated with the loop in the case of a

1 finished service such as UNE-P or QPP. Furthermore, as part of UNE-P, these elements
2 were already being billed out of the Customer Record Information System (“CRIS”)
3 billing system, and thus a change in USOCs was all that was necessary to effectuate new
4 rates. Clearly, the way in which Qwest tracks the loop for purposes of repair and
5 maintenance do not change as a result of the conversion from UNE-P to QPP. Thus, Mr.
6 Denney’s comparison on this point is not meaningful.

7 In the case of DS1 and DS3 UNEs, however, the character of the product offering is
8 changing. As I discussed above, as UNEs, DS1s and DS3s are available at TELRIC rates
9 only to CLECs. Thus, in wire centers that continue to be identified as “impaired” going
10 forward, Qwest must still offer those products as UNEs, unlike the switching and shared
11 transport components of UNE-P which are no longer classified as UNEs at all. In order
12 to charge a rate for the DS1 and DS3 services in the non-impaired wire centers at
13 something other than TELRIC, as Qwest is entitled to do under the FCC’s *TRRO*
14 decision, Qwest must re-classify them as something other than UNEs. In the case of
15 UNE-P, Qwest was not converting a UNE product to an existing tariffed equivalent
16 because QPP did not previously exist. In the case of DS1s and DS3s, however, Qwest
17 has a product offering that is a tariffed equivalent to its UNE offering. Thus, in
18 converting the UNE product to a tariffed private line product, Qwest must change the
19 circuit ID in order to properly track these differently-characterized products in the
20 appropriate systems.

21
22 **Q. AT PAGE 51 OF HIS TESTIMONY, MR. DENNEY ALSO PROVIDES**
23 **EVIDENCE OF THE CHANGE OF DS0 LOOPS TO A DIFFERENT RATE IN**

**OMAHA AS SUPPORT FOR HIS POSITION THAT QWEST SHOULD NOT
HAVE TO CHANGE CIRCUIT IDs FOR DS1s AND DS3s. PLEASE COMMENT.**

A. As is the case with QPP, DS0 unbundled loops in Omaha present a different set of circumstances than the DS1 and DS3 products. For example, DS0 unbundled loops do not have an existing tariffed counterpart, such as private line, like DS1 and DS3 products do. Therefore, because there was no existing equivalent service to convert the DS0 loops to, Qwest did not have any choice but to create a new wholesale product in order to charge the higher rates for loops allowed by the *Omaha Forbearance Order*.² In addition, the DS0 unbundled loops in Omaha provide far fewer difficulties because there are fewer of them, they come in fewer “flavors” of products, and like UNE-P, they are billed out of the CRIS system, and that does not change. Further, the DS0s in Omaha are limited to only nine wire centers, and only about 3,000 loops in total. Thus, although the circuit IDs for DS0 loops are not changing, and the process used to track them is entirely manual, the change process is limited in scope to a small subset of loops.

In the case of DS1s and DS3s, however, it would be unduly burdensome and expensive for Qwest to have to manually track all of the affected circuits in 12 states and 76 wire centers when there are processes and systems in place that Qwest and the CLECs can make use of by simply converting those circuits to private line services. Once again, Mr. Denney is comparing apples to oranges when he compares DS1s and DS3s, which do have existing tariffed equivalents that require circuit ID changes, to DS0 loops that have different characteristics. Furthermore, Mr. Denney fails to mention that even in Omaha,

1 for DS1 and DS3 products that are no longer required to be provided as UNEs under the
2 *Omaha Forbearance Order*, Qwest is using the same process, and the same existing tariff
3 charge, to convert those circuits to private line services that it is proposing for the *TRRO*-
4 affected circuits.

5 **Q. MR. DENNEY POINTS OUT AT PAGE 53 OF HIS TESTIMONY THAT WHEN**
6 **SOME CLECs ORIGINALLY CONVERTED THEIR PRIVATE LINE CIRCUITS**
7 **TO UNEs, THEY WERE GIVEN AN OPPORTUNITY TO KEEP THEIR**
8 **PRIVATE LINE CIRCUIT IDs. IS HE CORRECT?**

9 A. Yes. However, this was so only because those CLECs objected to Qwest's efforts to
10 convert those private line circuit IDs to circuit IDs representing UNE products. As
11 Qwest pointed out in its responses to the Joint CLECs' data request nos. 25 and 29,
12 attached as Exhibits Qwest/23 and Qwest/24, respectively, Qwest only offered that
13 option to a limited number of CLECs with embedded circuits established before April
14 2005. Mr. Denney quotes only a line from each of these data requests in his testimony at
15 page 52, leaving a different impression than was provided in Qwest's full responses. As
16 explained, the reason for discontinuing that practice in 2005 was that Qwest had
17 discovered, after allowing the circuit IDs to remain unchanged initially, that it was
18 experiencing difficulty in managing the circuits, and it was incurring a substantial
19 amount of expense on the resources necessary to manually track those circuits
20 individually in order to maintain its subsidiary records accurately. Therefore, as of April
21 2005, that option is no longer available, and thus, any circuit additions or changes made

² *Memorandum Opinion and Order on the Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160 in the Omaha Metropolitan Statistical Area*, FCC 05-170, WC Docket No. 04-233, effective

1 to circuits after that date are required to change circuit IDs as well. Currently, there are
2 fewer than 7% of all DS1 and DS3 UNEs that still have private line circuit IDs. Qwest
3 has accounted for those circuits in its conversion cost study, and thus does not include
4 activities, or the associated costs, triggered by a change of circuit ID for those
5 “grandfathered” circuits in its conversion costs.

6
7 **Q. MR. DENNEY SUGGESTS AT PAGE 61 OF HIS TESTIMONY THAT THE**
8 **COMMISSION SHOULD DETERMINE A RATE FOR UNE-TO-PRIVATE LINE**
9 **CONVERSIONS ON THE BASIS OF QWEST’S EXISTING TELRIC RATES. IS**
10 **THAT APPROPRIATE?**

11
12 **A.** No. There are two primary flaws with Mr. Denney’s discussion about the appropriate
13 rate for these conversions.

14 First, assigning a TELRIC rate for the nonrecurring charge associated with a tariffed
15 *interstate* private line service would be both an inappropriate application of TELRIC rates
16 and outside the scope of this Commission’s jurisdiction. Nonrecurring TELRIC charges
17 should only be associated with the establishment of UNE products. In this case, the
18 product being established is a tariffed private line service. Qwest has an existing tariffed
19 NRC that it is recommending as a reasonable charge for converting the UNEs to private
20 line circuits.

1 Second, Mr. Denney limits his discussion of TELRIC rates for private line to UNE
2 conversions to two states, Minnesota and Utah, as well as an average that includes
3 Arizona and Colorado in addition to those two states. The Minnesota Commission,
4 however, has historically set nonrecurring and other rates that were significantly lower
5 than the rates in other Qwest states largely on the basis of AT&T studies that were not
6 presented or adopted in those other states. Further, while the Utah Commission set the
7 second-lowest rate for conversions in Qwest's 14-state region, it did so on the basis that
8 the process would require little or no manual activity, and thus that Qwest's time
9 estimates should be reduced by 40%. Mr. Denney presents the much lower average rate
10 of these four states as being \$20.22, but fails to mention that in Qwest's other states, the
11 TELRIC rates for private line to UNE conversions range from \$22 to \$42, with the most
12 prevalent rate being approximately \$37. Furthermore, these rates are for a conversion
13 process that did not anticipate the need to change circuit IDs. Thus, if the rates had been
14 based on the process as it now exists, with the necessary circuit ID changes, the resulting
15 rate would likely have been well above the existing tariffed charge that Qwest
16 recommends for this activity.

18 III. CONCLUSION

19
20 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

21 A. Qwest is required to perform the work activities identified in its conversion cost study in
22 order to transition circuits that CLECs purchase when a UNE is converted to a private

1 line circuit, including the changing of the circuit ID. Qwest's process is transparent to
2 CLECs and is designed to ensure that there is no disruption to CLEC end-user customers.

3 It makes sense in a competitive environment for Qwest to use its existing systems,
4 processes and identifiers (and thus not develop and establish new, costly ones) to be able
5 to distinguish between UNEs and private line services for purposes of provisioning,
6 maintenance and repair. In the long run, Qwest will be able to serve all of its customers,
7 including CLECs and their end-user customers, better and more efficiently if it is able to
8 accurately identify the types of services and facilities that it is providing to these
9 respective categories of customers. Therefore, if a CLEC does not choose to use
10 alternative facilities to replace the Qwest UNE circuits that the CLEC is no longer
11 entitled to purchase at TELRIC rates, Qwest should be allowed to charge that CLEC for
12 the activities that Qwest undertakes to convert those circuits from UNEs to private line
13 services.

14
15 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

16 **A.** Yes it does.

QWEST CORPORATION

DOCKET: UM 1251
INTERVENOR: Covad Communications Co., Eschelon Telecom of Oregon, Inc.,
Integra Telecom of Oregon, Inc., McLeodUSA Telecomm. Services, Inc., and XO
Comm. Services
REQUEST NO: Joint CLECS 01-025

REQUEST:

[Qwest/12, Million/5] Is there any time when Qwest changed the code used to maintain its inventory of circuits and did not change the embedded base of circuits to the new format?

RESPONSE:

Prior to April 2005, Qwest did not require a change to the circuit IDs when a CLEC requested conversions from Private Line/Special Access to EEL; these circuits retained the Private Line service code modifiers. However, because of the difficulty this practice caused with Qwest's ability to track these products correctly in its systems, effective April 8, 2005, Qwest began utilizing the industry standard service code modifiers specific to EEL, and also established service code modifiers specific to Loop Mux Combo (LMC). Circuit IDs were required to be changed to reflect the new service code modifiers on all new requests, as well as new conversion requests from Private Lines to EEL/LMC and change orders on existing EEL/LMC circuits. Qwest also implemented the changes to those EEL and LMC Loops in the embedded base.

There were some CLECs that requested to opt out of the changes to their embedded base, which Qwest allowed. Those circuits remaining in the EEL/LMC embedded base with a Private Line circuit ID represent less than 7% of the total circuits impacted by the UNE to Private Line conversions. These circuits will retain their Private Line circuit IDs when they are converted from EEL/LMC to Private Lines. The conversion cost study has been adjusted to reflect those circuits that do not require circuit ID changes as part of the conversion process.

Respondent: Terri Million, Staff Director

QWEST CORPORATION

DOCKET: UM 1251
INTERVENOR: Covad Communications Co., Eschelon Telecom of Oregon, Inc.,
Integra Telecom of Oregon, Inc., McLeodUSA Telecomm. Services, Inc., and XO
Comm. Services
REQUEST NO: Joint CLECS 01-029

REQUEST:

[Qwest/12, Million/6-7] Please confirm that EEL circuits, where Qwest historically did not change the circuit ID, are being managed properly in the PID/PAP in Oregon.

RESPONSE:

Yes, EEL circuits are being managed properly in the PID/PAP reporting in Oregon. However, as discussed in response to data request 01-025, because the circuit IDs do not properly reflect the products to which they are assigned, Qwest has difficulty tracking the EEL circuits in its systems, and therefore must manually track those circuits in order to report them properly. For that reason, effective April 8, 2005, Qwest has required changes to the circuit ID on all new requests, conversions and change orders on existing EEL/LMC circuits.

Respondent: Terri Million, Staff Director