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IDAHO PUBLIC  
UTILITIES COMMISSION

BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF QWEST )  
CORPORATION'S PETITION ) CASE NO. QWE-T-08-07  
FOR APPROVAL OF NON-IMPAIRED )  
WIRE CENTER LISTS PURSUANT TO )  
THE TRIENNIAL REVIEW REMAND )  
ORDER )  
\_\_\_\_\_ )

REBUTTAL TESTIMONY OF RACHEL TORRENCE  
QWEST CORPORATION

JUNE 10, 2009

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**ATTACHED EXHIBITS**

1

2

3

**Confidential Qwest Exhibit 11.....Letter to Wire Center Personnel**

CASE NO. QWE-T-08-07

6/10/09

TORRENCE, R (Di-Reb) 3

QWEST CORPORATION

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**I. IDENTIFICATION OF WITNESS**

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

A: My name is Rachel Torrence. My business address is 700 W. Mineral Ave., Littleton, Colorado, 80120. I am employed as a Director supporting Network Operations for Qwest Corporation.

**Q: DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS DOCKET?**

A: Yes. I filed Direct Testimony in this docket on behalf of Qwest Corporation on April 17, 2009.



1 will correct these mischaracterizations and reinforce the validity of Qwest's methodology  
2 to identify and count fiber-based collocators and the results of Qwest's efforts.

3         Additionally, I will respond to the Joint CLECs' assertion that Qwest should be  
4 required to provide "advance notification" to CLECs when a wire center is nearing a non-  
5 impairment threshold. My testimony will show that such notification is immaterial and  
6 unnecessary and seeks to impose an undue requirement on Qwest for no benefit to Qwest,  
7 or for that matter, the CLECs.

8         Finally, I will respond to Mr. Denney's request regarding a provision in the  
9 Settlement Agreement addressing "express fiber."

10         While I am responding to the fiber-based collocation element of Qwest's  
11 methodology, Ms. Albersheim's testimony will respond to Mr. Denney's testimony  
12 regarding the multi-state settlement agreement and the business line-count methodology  
13 and Ms. Hunnicutt will respond to Mr. Denney's testimony regarding the conversion  
14 charge.

1           **III. THE JOINT CLECs DO NOT DISPUTE THE NON-IMPAIRMENT**  
2           **STATUS OF THE BOISE MAIN AND BOISE WEST WIRE CENTERS**

3  
4  
5           **Q: DO MR. DENNEY AND THE JOINT CLECs DISPUTE THE NON-**  
6           **IMPAIRMENT STATUS OF THE TWO IDAHO WIRE CENTERS AT ISSUE IN**  
7           **THIS DOCKET?**

8           A: No. In fact, on page 41, lines 4-6, of his direct testimony, Mr. Denney  
9           states:

10           Both the Tier 1 status for Boise Main and The Tier 2 status for Boise West  
11           currently appear to be supported by the number of fiber-based collocators in those  
12           offices.  
13

14           Later in his testimony, on page 42, lines 5-8, he provides further confirmation of the  
15           accuracy of Qwest's data.

16           Based upon a review of the fiber-based collocation data provided by Qwest, it  
17           currently appears that Qwest has at least four fiber-based collocators in Boise  
18           Main and at least three in Boise West, which would support Qwest's request for  
19           Tier 1 and Tier 2 status respectively.  
20

21           **Q: SINCE THERE IS NO DISPUTE REGARDING THE NON-**  
22           **IMPAIRMENT STATUS OF THESE TWO WIRE CENTERS, WHAT ARE MR.**  
23           **DENNEY'S PURPORTED CONCERNS?**

24           A: Simply stated, the Joint CLECs attack the methodology by which Qwest  
25           has identified and counted the fiber-based collocators on which the non-impairment

1 status is based. Additionally, while one of the Joint CLECs, Integra, was a signatory to  
2 the Multi-State Settlement Agreement regarding Wire Center Designations and Related  
3 Issues (“the Settlement Agreement”) which memorialized Qwest’s and numerous  
4 CLECs’ agreement on the methodology for identifying and counting fiber-based  
5 collocators, and the parameters for future non-impairment filings, the Joint CLECs  
6 apparently would like to have that methodology readdressed in Idaho. The Joint CLECs  
7 would have this methodology reexamined, despite the fact that the use of this  
8 methodology has resulted in an accurate count of fiber-based collocators in Idaho and  
9 numerous other states. They would have this methodology reexamined despite the fact  
10 that it has been accepted by numerous other state commissions in Qwest’s ILEC region.  
11 Further, they would have the methodology reexamined despite the fact that Qwest makes  
12 every reasonable effort to obtain an accurate count, not in a unilateral vacuum, but by  
13 actively soliciting the affected CLECs’ participation. In short, the Joint CLECs are  
14 essentially asking that all parties, including this Commission, “reinvent the wheel” not  
15 only for this proceeding, but for any subsequent updates to the non-impairment list.  
16 Thus, it appears that the Joint CLECs are seeking to increase the chance of maintaining  
17 the status quo of impairment by seeking to insert additional complexity into what the  
18 FCC intended to be a largely simple and self-effectuating process for identifying  
19 competition in a telecommunications market.

1           **IV. QWEST'S CURRENT PROCESS YIELDS ACCURATE RESULTS**

2  
3           **Q: MR. DENNEY CLAIMS THE JOINT CLECs HAVE FIVE MAJOR**  
4 **AREAS OF CONCERN WITH QWEST'S METHODOLOGY FOR**  
5 **IDENTIFYING FIBER-BASED COLLOCATORS. WHAT IS YOUR GENERAL**  
6 **RESPONSE?**

7           A: Mr. Denney purports to have concerns with five aspects of the  
8 methodology that Qwest uses to identify and count fiber-based collocators. His concerns  
9 center on (1) the distribution and use of Qwest's letter to CLECs regarding their fiber-  
10 based collocations, and Qwest's actions when a CLEC fails to respond to Qwest's  
11 requests for validation of its findings, (2) Qwest's instructions to field personnel  
12 regarding collocation verification and the validity of the collocation verifications, (3) the  
13 counting of CLEC-to-CLEC connections, (4) the advance notification of impending non-  
14 impairment and (5) a Settlement Agreement provision regarding express fiber. Generally  
15 speaking, however, Mr. Denney's concerns are unfounded. His testimony relies on  
16 mischaracterizations of Qwest's actions and intentions. His testimony also contradicts  
17 itself. And, finally, his testimony shows a tendency to either ignore the language of the  
18 *TRRO*, or to bend that language in the order to benefit the interests of the Joint CLECs.  
19 I will address each of his five concerns individually and in greater detail in the following  
20 five subsections.

1           **A. QWEST'S LETTERS TO CLECs REQUESTING VALIDATION OF ITS**  
2           **FINDINGS ARE A REASONABLE ATTEMPT TO SOLICIT CLEC**  
3           **PARTICIPATION**  
4

5           **Q:     IN HIS DIRECT TESTIMONY, MR. DENNEY TAKES ISSUE**  
6           **WITH QWEST'S METHODOLOGY IN THE EVENT THAT A CLEC ELECTS**  
7           **NOT TO RESPOND TO QWEST'S LETTER ASKING FOR VALIDATION OF**  
8           **THE CLEC'S DESIGNATION AS A FIBER-BASED COLLOCATOR. HOW DO**  
9           **YOU RESPOND?**

10          A:     Mr. Denney's testimony completely mischaracterizes Qwest's position  
11          and its actions in the event that a CLEC *chooses* not to respond to Qwest's inquiries.  
12          First, at page 43, footnote 62, Mr. Denney erroneously cites my testimony, misstating that  
13          "Qwest counted a carrier as a fiber-based collocator even if a carrier failed to confirm this  
14          status." He also erroneously states at page 42, footnote 60, that in the absence of a CLEC  
15          response, Qwest interprets the non-response as CLEC agreement, rather than a CLEC  
16          dispute. With these misstatements, he wrongly insinuates that Qwest's letters to CLECs  
17          play no serious role in determining the count of fiber-based collocators. This could not  
18          be further from the truth.

19          In developing its process for identifying and counting fiber-based collocators,  
20          Qwest wanted to ensure that it made every reasonable effort to arrive at an accurate  
21          number of fiber-based collocators in a given wire center. Recognizing that the only

1 definitive proof regarding a collocator's status can only come for the collocator itself,  
2 Qwest sought to obtain that proof via a letter requesting not only validation of a CLEC's  
3 status as a fiber-based collocator as the FCC defined it in the *TRRO*, but also the CLEC's  
4 affiliations with other carriers, and the terms under which it may be obtaining facilities.  
5 That information was then incorporated into Qwest's count.

6 If a collocator presents Qwest with information that it is not a fiber-based  
7 collocator for any of the reasons outlined in the request letter, such information is further  
8 investigated and, when necessary and appropriate, the CLEC is removed from the list.  
9 However, when a carrier has chosen not to respond to Qwest's inquiry letter, whether or  
10 not it remains on the list of fiber-based collocators depends on various factors. For  
11 example, if Qwest obtains sufficient evidence, gained independently of the collocator's  
12 affirmation that it is a fiber-based collocator, the collocator remains on the list. If there is  
13 insufficient evidence of a CLEC's status as a fiber-based collocator, regardless of  
14 whether the collocator has or has not responded to Qwest's letter, that collocator would  
15 not have been included on the list of fiber-based collocators. Qwest does not believe that  
16 a fiber-based collocator's choice not to respond to Qwest's request for information should  
17 be sufficient reason for it to be removed from Qwest's list of fiber-based collocators,  
18 especially if Qwest is already in possession of other substantiating evidence that the  
19 CLEC is indeed a fiber-based collocator. Otherwise, there would be absolutely no  
20 incentive for any CLEC to respond to Qwest's letter. After all, a CLEC's failure to

1 respond may be a purposeful attempt to avoid being designated a fiber-based collocator  
2 for *TRRO* non-impairment purposes. It is certainly logical, therefore, to assume, as the  
3 FCC directed, that a carrier *is* a fiber-based collocator as defined in the *TRRO* when,  
4 despite the fact that a collocator chose not to respond, Qwest can provide independent  
5 evidence that: (1) the carrier is occupying a collocation space, (2) the carrier is being  
6 billed, and is paying, for that space, as well as for power to that space, (3) the collocation  
7 has fiber facilities entering and terminating in that space, and (4) those fiber facilities  
8 leave the central office.

9

10 **Q: PLEASE RESPOND TO MR. DENNEY'S CONCERNS**  
11 **REGARDING QWEST'S LETTERS BEING APPROPRIATELY ROUTED TO**  
12 **THE APPROPRIATE INDIVIDUALS.**

13 A: Like the Joint CLECs, Qwest also believes it is important that its requests  
14 for validation are sent and routed to the appropriate individuals within the companies that  
15 Qwest sends these letters to. As such, Qwest makes every reasonable effort to ensure that  
16 the letters are sent to the appropriate CLEC personnel. Qwest sends its letters to the  
17 contact of record for a particular CLEC collocator, and the letters are sent in compliance  
18 with the provisions in each CLEC's specific interconnection agreement regarding  
19 notifications. For a few collocators, Qwest has received specific instructions regarding  
20 who is to receive this type of request, and Qwest sends these letters to them accordingly.

1 In isolated instances, however, the letters have been inadvertently misdirected, but Qwest  
2 certainly has made every reasonable effort to reroute them to the correct individual, and  
3 has made alternate accommodations for responding when requested by a CLEC.

4 In his testimony, Mr. Denney also complains that despite his ongoing  
5 involvement with non-impairment dockets before other state utility commissions in  
6 Qwest's region, he has not been included in the distribution of these letters, presumably  
7 to his employer, Integra. I do note, however, that Mr. Denney never claims that Integra  
8 did not receive the letter in question for Idaho.

9 Again, however, these letters are sent to the each CLEC's contact of record and  
10 are sent in compliance with provisions of the specific interconnection agreement for his  
11 particular employer, Integra, as with all other CLECs. I am not aware that Mr. Denney  
12 ever made any request to be the recipient of these letters to Integra in the past or going  
13 forward. Moreover, given his past and ongoing involvement in non-impairment dockets,  
14 and his knowledge of my role in facilitating the count of fiber-based collocators and as a  
15 witness in these types of dockets, I would have thought he would have at least contacted  
16 me earlier in this (or other past) proceeding if he wanted to receive this letter. To my  
17 knowledge he had never done so. And I do not believe that Qwest was somehow  
18 obligated to anticipate that Mr. Denney wanted to be the contact person for Integra  
19 simply because he has been involved in these non-impairment proceedings in the past.

1 Regardless, going forward should he wish to become the official contact for Integra, he  
2 can easily let me know to make such an arrangement.

3

4 **Q: PLEASE ADDRESS MR. DENNEY'S COMMENTS REGARDING**  
5 **ATTEMPTS BY QWEST TO "FOLLOW UP" WITH INTEGRA WHEN IT**  
6 **FAILED TO RESPOND.**

7 A: As noted in my direct testimony and as Mr. Denney himself  
8 acknowledges, CLECs are often reluctant to respond to Qwest's inquiries, and  
9 unfortunately, Qwest cannot force a CLEC to respond. Qwest can only make its best  
10 efforts to try to enlist the cooperation of any of the impacted CLECs. Here, Qwest did all  
11 it could have reasonably done, and will continue to do so in the future, to validate the  
12 existence of fiber-based collocators in a wire center. The Joint CLECs' implication,  
13 therefore, that it is somehow Qwest's obligation to "baby-sit" CLECs is seriously flawed  
14 in that it essentially ignores a vital circumstance that significantly affects Qwest's ability  
15 to obtain independent validation; that it is often in the CLECs' interests *not* to respond.  
16 Moreover, although these collocators are in Qwest wire centers, Qwest may not have  
17 first-hand knowledge as to how a collocator is using its space. This is particularly so if  
18 that collocator is not purchasing services from Qwest, as would be the case with most  
19 fiber-based collocators, since Qwest has no physical access to those carriers' networks  
20 (beyond what Qwest may be providing) or operations data to definitively verify each of

1 these facts; it is only the carriers themselves that are in a position to definitively affirm  
2 their network architectures, corporate affiliations, and thus their status as fiber-based  
3 collocators. Notably, numerous carriers have readily affirmed their status as fiber-based  
4 collocators. Others, however, have apparently *chosen* not to respond.

5 Here in Idaho, Integra did not respond to Qwest's letter (although, again, Mr.  
6 Denney does not state that Integra never received it, and does not deny that it did receive  
7 it). The letter, however, was sent to Integra's contact(s) of record, who had responded  
8 not only to previous letters, but also to another letter sent in a more recent filing, and  
9 thus, subsequent to the letter in question. Given this previous pattern of responses from  
10 Integra, it would be difficult to believe that Qwest's letter did not reach the intended  
11 individual, as Mr. Denney implies at page 43, lines 13-14. Furthermore, the letters are  
12 sent via certified mail, and indeed, Qwest is in possession of a signed receipt from  
13 Integra. Thus the most logical and reasonable conclusion is that Integra *chose* not to  
14 respond for this particular proceeding.

15 It is also reasonable that once Qwest has received confirmation that its letter was  
16 indeed received by Integra, Qwest is under no obligation to undertake further action. The  
17 *TRRO* imposes no such obligation. It was Qwest, in an effort to perform due diligence,  
18 that voluntarily opted to solicit the CLECs' cooperation. Ironically, the "obligation" to  
19 send these letters was only memorialized in the Settlement Agreement, whose validity  
20 Mr. Denney and Joint CLECs are vehemently objecting to in his testimony. Finally, by

1 choosing inaction, Integra cannot absolve itself of the responsibility for compliance with  
2 an FCC order, nor should it attempt to shift the obligation for further action onto Qwest.

3

4 **Q: WHAT IS QWEST'S RESPONSE TO THE JOINT CLECs'**  
5 **RECOMMENDATION REGARDING ADDITIONAL FOLLOW-UP WHEN**  
6 **OBTAINING VALIDATION FROM CLECs OF THEIR STATUS AS FIBER-**  
7 **BASED COLLOCATORS?**

8 A: At page 73, lines 6 through 11, Mr. Denney states that Qwest should make  
9 more of a serious effort to obtain verification from CLECs. However, as stated, Qwest  
10 already takes these efforts very seriously. Interestingly enough, however, he never  
11 mentions that CLECs, such as his employer Integra, should make more of a serious effort  
12 to facilitate the intent of the *TRRO* by diligently providing the data that Qwest is  
13 requesting. Nor does he ask this Commission, the only entity with authority to obligate  
14 CLECs to cooperate in determining the true nature of their collocator status, for  
15 assistance in obtaining the data that Qwest is requesting. Instead, he recommends that  
16 Qwest send "a notice to at least the contacts identified by each carrier for interconnection  
17 agreement notices." However, as I have already testified, Qwest has already done so, as  
18 this is already part of Qwest's methodology.

19 Mr. Denney goes on to state that Qwest should be required to follow up with  
20 carriers if Qwest receives no response. He does not state, however, exactly what type of

1 follow-up that he and the Joint CLECs believe should be required. Nevertheless, Qwest  
2 notes that it sends its notifications via certified U.S. Mail. Qwest then receives a signed  
3 receipt upon the letter having been delivered to the CLEC's contact of record.

4 In short, Qwest knows the CLEC received the letter, and thus the ball is squarely  
5 in the CLEC's proverbial court. Qwest has very little, if any, recourse at this point. If a  
6 CLEC, such as Integra, chooses not to respond, or files the letter in a drawer and forgets  
7 about it, it is ultimately the CLEC that should be held accountable. That accountability  
8 should not be shifted to Qwest, particularly in light of the fact that Qwest has made a  
9 diligent effort to solicit each CLEC's cooperation.

10  
11 **B. COLLOCATION FIELD VERIFICATIONS WERE COMPREHENSIVE AND**  
12 **PERFORMED IN AN OBJECTIVE MANNER**  
13

14 **Q: WERE QWEST'S PHYSICAL FIELD VERIFICATIONS OF**  
15 **FIBER-BASED COLLOCATORS CONDUCTED IN AN OBJECTIVE MANNER?**

16 **A:** Absolutely. Mr. Denney (at pages 43 and 44 of his testimony) wrongly  
17 accuses Qwest of attempting to come to predetermined outcomes when he states that  
18 Qwest was "encouraging its employees to err on the side of finding fiber-based  
19 collocations." However, apart from the offensive, unfair and groundless nature of Mr.  
20 Denney's accusation, it becomes abundantly clear if one reads the instruction letter that a  
21 brief explanation regarding why Qwest field personnel are asked to perform a task

1 outside of their day-to-day functions is entirely appropriate.<sup>2</sup> In addition, these Qwest  
2 personnel were given specific instructions regarding what data to validate. I take strong  
3 exception to Mr. Denney's apparent accusations that Qwest employees were "encouraged  
4 to err" and believe these accusations are inappropriately inflammatory and insulting, and,  
5 at a minimum, they are simply wrong. Confidential Exhibit 11, attached to my rebuttal  
6 testimony, is a copy of the letter in question.

7  
8 **Q: AT PAGE 44 OF HIS TESTIMONY, MR. DENNEY POINTS TO AN**  
9 **INSTANCE THAT HE BELIEVES CALLS INTO QUESTION THE VALIDITY**  
10 **OF THE PHYSICAL FIELD VERIFICATIONS CONDUCTED BY QWEST.**  
11 **PLEASE ADDRESS THE ISSUE.**

12 **A:** Mr. Denney is referencing an instance where a collocator in Colorado was  
13 initially mis-designated as a fiber-based collocator in Qwest's initial 2005 filing. He is  
14 incorrect, however, in claiming that the field verification in that case erroneously  
15 validated a copper-based collocation as a fiber-based collocation. Before rebutting Mr.  
16 Denney's testimony, it is important to recognize that this issue is irrelevant to this Idaho  
17 docket, and we are not here to deal with the specifics of any non-Idaho wire center, but

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<sup>2</sup> 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 since Mr. Denney raised it, we are forced to rebut it so that the Commission does not  
2 believe there is any merit to this non-Idaho example.

3 The mis-designation in question occurred during Qwest's first non-impairment  
4 filing in February 2005, when Qwest was still developing its methodology immediately  
5 after the FCC had issued its *TRRO*. Specifically, upon release of the *TRRO* on February  
6 4, 2005, Qwest had a relatively short two-week timeframe before it was to file a final  
7 determination of the number non-impaired wire centers with the FCC, based solely or in  
8 part on the number of fiber-based collocators. Given the very limited time that Qwest  
9 had between receipt of the FCC's February 2005 request for a wire center list and the  
10 date that Qwest was required to submit that list to the FCC, Qwest's developed an initial  
11 list that was the result of data gathered from its collocation tracking and inventory records  
12 and billing data, and filed that list on February 18, 2005. The collocator referenced by  
13 Mr. Denney was included in this initial list. At this point, coming just days after the FCC  
14 had issued the *TRRO*, the methodology did not necessarily include an on-site physical  
15 field verification, but rather, verification by field personnel who may or may not have  
16 been onsite. Due to the rushed and rather conservative nature of Qwest's initial list of  
17 fiber-based collocators, Qwest necessarily decided that it would modify its list by way of  
18 a secondary effort comprised of a comprehensive validation of the data compiled during  
19 the initial effort, in addition to incorporating CLEC responses to Qwest's requests for  
20 confirmation of data and the results of actual on-site field verifications of wire centers. It

1 was after the physical on-site verification was instituted that the collocation in question  
2 was identified as being copper-based (and not fiber-based). Ultimately, however, the  
3 field verification, in conjunction with the collocator's response to Qwest's letter, resulted  
4 in Qwest *correctly* designating the collocation as copper-based and thereafter, the filing  
5 of an accurate list of fiber-based collocators. In fact, and contrary to Mr. Denney's  
6 mistaken assertions, the methodology as set forth, including the field verification,  
7 ultimately yielded a correct count. This one instance also demonstrates that the  
8 methodology Qwest ultimately arrived at and used in this proceeding, has checks and  
9 double checks that minimize (if not eliminate) errors, ultimately yielding an accurate list  
10 of fiber-based collocators.

11

12 **Q: PLEASE ADDRESS MR. DENNEY'S MINNESOTA EXAMPLE, AT**  
13 **PAGES 44 AND 45 OF HIS TESTIMONY, WHERE HE AGAIN CALLS INTO**  
14 **QUESTION THE VALIDITY OF QWEST'S FIELD VERIFICATIONS.**

15 A: First, it is important to note once again, that the circumstances in  
16 Minnesota have absolutely no bearing on the proceedings here in Idaho, as they were  
17 specific to Minnesota and to one CLEC only. However, since Mr. Denney raises the  
18 issue, Qwest is once again forced to rebut it so that the Commission has the full picture of  
19 what happened there. Second, I can only conclude that his comments are either a blatant  
20 and intentional mischaracterization of the applicable facts, or evidence of Mr. Denney's

1 selective memory regarding the actual facts of Qwest's initial filings in Minnesota, the  
2 outcome of that filing, and their lack of impact in Idaho.

3 In any event, the Minnesota example to which Mr. Denney is referring was also  
4 part of Qwest's initial non-impairment filing in 2005. As I stated above, however, upon  
5 release of the *TRRO* in February 2005, Qwest had a relatively short two-week timeframe  
6 before it was required to file a list of non-impaired wire centers with the FCC. Given that  
7 limited time period, Qwest developed an initial list that was the result of data gathered  
8 from its collocation tracking and inventory records and billing data. This effort resulted  
9 in a list of fiber-based collocators that were operating from December 2003 through  
10 February 2005 and that Qwest filed on February 18, 2005. The data on which Qwest  
11 relied showed that the collocations in question had scheduled target completion dates in  
12 late February 2005, fitting well with in the stated timeframe. Subsequent to the mid-  
13 February 2005 filing, however, with the collocation space and power already provisioned  
14 and in place for this one CLEC, the completion dates were pushed out into early March  
15 2005 because of delays in bringing in and terminating the fiber. The termination of the  
16 fibers in the two collocations was completed and the collocations were handed off to the  
17 collocator before the March 11, 2005 effective date of the *TRRO*. Also, as stated earlier,  
18 in an effort to expand on the limited initial filing effort, Qwest altered its methodology to  
19 include a comprehensive validation of the data compiled during the initial effort, as well  
20 as incorporating CLEC responses to Qwest's requests for confirmation of data, and actual

1 on-site field verifications of wire centers. The final product was a list of fiber-based  
2 collocators in operation as of March 11, 2005, the effective date of the *TRRO*. Included  
3 in that list were the two Eschelon collocations that Mr. Denney referred to.<sup>3</sup>

4

5 **Q: HOW ACCURATE ARE MR. DENNEY'S CLAIMS THAT QWEST**  
6 **CONTINUES TO COUNT CARRIERS WHEN THE FIELD VERIFICATIONS**  
7 **INDICATE OTHERWISE?**

8 A: Once again, Mr. Denney is mistaken, and once again he refers to a historic  
9 instance in another state in an apparent attempt to distract from the issues here.  
10 Specifically, at page 45, lines 3-9, Mr. Denney points to one instance in Arizona (in  
11 which Qwest could not provide as proof, specific technical information regarding the  
12 location of fuses on the power plant) to allege that Qwest is ignoring its own field  
13 verification worksheets. However, this was merely one instance out of the hundreds of  
14 collocators and collocation worksheets that Qwest has filed as evidence in numerous non-  
15 impairment proceedings in nine different states since 2005. Again, it appears that Mr.  
16 Denney is attempting to distract this Commission from the issues here, through technical

---

<sup>3</sup> Interestingly enough, Mr. Denney continues to dispute that the collocations were, in fact, operational as of the effective date of the *TRRO*, March 11, 2005. He does so even though Qwest is in possession of documents proving that Eschelon (Mr. Denney's former employer which Integra later acquired) took possession of the two Minnesota collocations at issue before March 11, 2005, proving therefore that they met the FCC's definition for a fiber-based collocator. Furthermore, the wire centers in question were accepted as non-impaired by the Minnesota Commission, despite Mr. Denney's testimony to the contrary.

1 discussions of an isolated incident in another state that have nothing to do with the issues  
2 here, and thus force Qwest to rebut this example, lest the Commission believe there is  
3 any merit to these contentions. With that in mind, Qwest is forced to rebut this non-Idaho  
4 example so that this Commission can have the complete picture of what happened there  
5 and to allay any concern the Commission may have about Qwest's process to identify a  
6 fiber-based collocator.

7 In his testimony in the Arizona proceeding which he refers to, as well as his  
8 testimony here in Idaho, Mr. Denney erroneously claims that Qwest has mistakenly  
9 counted carriers as fiber-based collocators when it appeared that Qwest was unable to  
10 "verify that the carriers had power at the BDFB [Battery Distribution Fuse Board]." Mr.  
11 Denny makes this claim despite the fact that active power was verified and it was only a  
12 carrier's location on the BDFB that was not validated. Once again, Mr. Denney and the  
13 Joint CLECs stray from the *TRRO*'s definition of a fiber-based collocator.

14 Qwest agrees that the purpose of the (verification) spreadsheet is to verify aspects  
15 of a collocation, specifically, the criteria set forth by the *TRRO* which define a fiber-  
16 based collocator. Notably, but ignored by Mr. Denney, the spreadsheet does indeed  
17 document the specific criteria defining a fiber-based collocator as set forth in the *TRRO*:  
18 (1) an existing collocation arrangement, (2) active power, (3) the existence of fiber  
19 facilities, and (4) the fiber facilities both terminating and exiting the wire center.

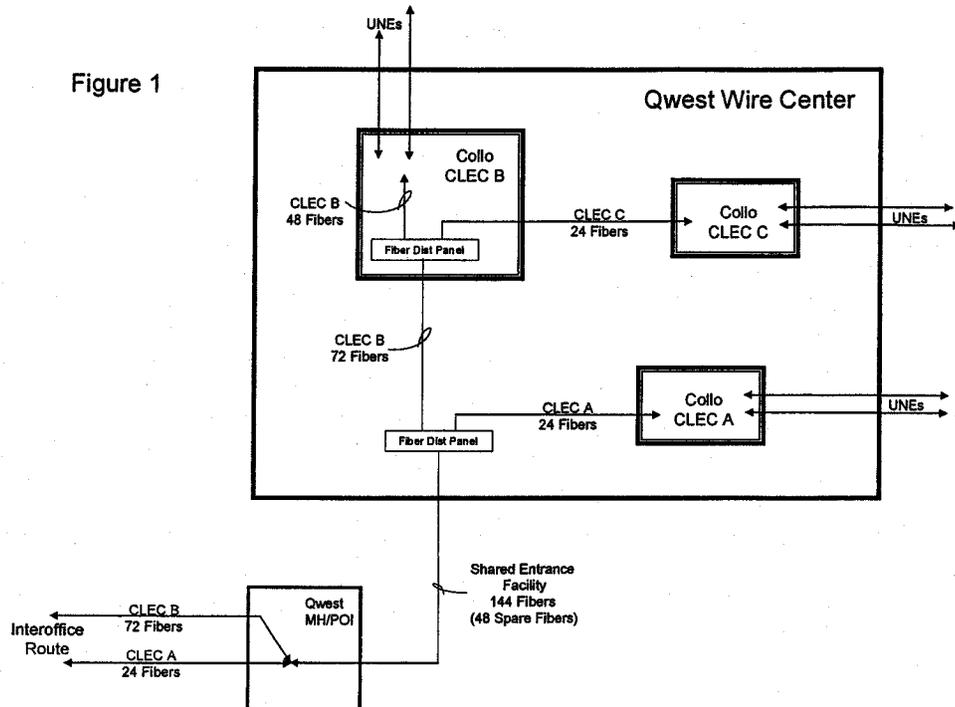
1           However, and of particular importance here, the spreadsheets also contain  
2 information that the *TRRO does not require* as necessary in defining a fiber-based  
3 collocation. This additional information is simply additional data, such as the type of  
4 fiber (i.e., express fiber), cross-connect information, and verification of connections at the  
5 Battery Distribution Fuse Board (the BDFB on the worksheet), that Qwest collects as  
6 *further* substantiation of the fiber-based collocator designation. Mr. Denney's testimony  
7 erroneously implies that the absence of this particular information (specifically, the  
8 verification and location of connections at the BDFB) somehow must mean that Qwest's  
9 collocation verification has failed. This is certainly *not* the case.

10           If one looks at the spreadsheets, in all instances, power has been visually verified  
11 at the collocation, whether or not it was traced back to the BDFB. That means that the  
12 equipment in the collocation was "on" and operational. The mere fact that a technician  
13 may not have completed a physical trace of a single cable through the central office  
14 racking to the BDFB does not mean that the collocation was not actively powered; it  
15 simply means that circumstances, such as racking congestion, may have prevented the  
16 technician from completing the tracing of the cable. Therefore, contrary to Mr. Denney's  
17 mistaken assertions, in this Arizona example, Qwest verified the existence of active  
18 power to all the fiber-based collocations that it counted in its Arizona wire centers, as  
19 Qwest counted only valid fiber-based collocators.

20



Figure 1



1

2 As illustrated, fiber-based collocators bring their fiber facilities to a Qwest  
3 facility, usually through a manhole, commonly referred to as a point of interconnection  
4 (“POI”). At the POI, the collocators will splice their fiber cable to a shared entrance  
5 facility. This shared facility is a cable shared by the CLECs as a means to enter the  
6 Qwest wire center. This is a common and efficient method for fiber-based collocators  
7 to enter the wire center. Once inside the wire center, the fibers are once again broken  
8 out for the individual CLECs and terminated at their respective collocations. This is  
9 illustrated by the fiber configurations for CLEC A and CLEC B. CLEC A and CLEC B

1 deploy optronics to their fiber facility, connect to UNEs, and transport traffic from this  
2 Qwest wire center.

3       However, in this example, CLEC C, obtains its fiber from CLEC B. In effect,  
4 CLEC C has obtained a fiber facility from CLEC B, and that fiber facility extends from  
5 CLEC C's collocation through CLEC B's collocation and out of the Qwest wire center  
6 to whatever end-point it has arranged with CLEC B. In this example, CLEC B retains  
7 48 of its original 72 fibers, and CLEC C obtains the remaining 24 unlit fibers for its  
8 use. CLEC C is therefore free to connect its own optronics to that fiber facility,  
9 connect UNEs to that fiber facility, and transport traffic across that facility. Here,  
10 CLEC C is operating a fiber facility, as are CLECs A and B. In other words, *both*  
11 CLECs B and C are fiber-based collocators, even though they are cross-connected.  
12 Figure 1 illustrates CLEC-to-CLEC connections between fiber-based collocators only.  
13 Any of the CLECs shown in Figure 1 may also be connected with other non-fiber-based  
14 collocators.

15

16       **Q:    WHAT ROLE WOULD CLEC-TO-CLEC CONNECTIONS PLAY**  
17 **IN A COMPETITIVE TELECOMMUNICATIONS MARKET?**

18       **A:**    In a wire center where a CLEC or CLECs are offering alternative transport  
19 facilities in competition with an ILEC (such as Qwest), a CLEC-to-CLEC connection is a  
20 viable and relatively easy way for carriers to obtain facilities from someone other than the

1 ILEC. CLEC-to-CLEC connections facilitate the use of alternative facilities with a  
2 minimum of investment and construction efforts by leveraging architectures already in  
3 place. As demonstrated in Figure 1, it is exactly what the FCC intended: easily  
4 obtainable competitive alternatives.

5

6 **Q: WOULD QWEST'S METHODOLOGY CORRECTLY IDENTIFY**  
7 **FIBER-BASED COLLOCATORS, OR EXCLUDE NON-FIBER-BASED**  
8 **COLLOCATORS, EVEN IF CLEC-TO-CLEC CONNECTIONS ARE PRESENT?**

9 A: Yes. Qwest's methodology for identifying and counting fiber-based  
10 collocators looks for very specific criteria. If a collocator meets these very specific  
11 criteria, it is counted as a fiber-based collocator. If it does not meet the specific criteria, it  
12 is not counted as a fiber-based collocator. If a collocator is cross-connected to another  
13 collocator in the same wire center and it otherwise meets these very specific criteria, one  
14 or both will be counted, and legitimately so. Again, if the CLEC does not meet these  
15 very specific criteria, it will not be counted as a fiber-based collocator.

16 Qwest is confident that its methodology accurately identifies and counts fiber-  
17 based collocators. Contrary to Mr. Denney's assertion, Qwest's methodology does not  
18 promote "double-counting" or erroneous counting of fiber-based collocators.  
19 Furthermore, CLEC-to-CLEC connections, do not, in and of themselves, negate a

1 collocator from being counted as a fiber-based collocator if it otherwise meets the criteria  
2 set forth by the FCC in the *TRRO*.

3

4 **Q: DOES MR. DENNEY CONTRADICT HIMSELF WHEN HE**  
5 **DISCUSSES FIBER-BASED COLLOCATORS USING CLEC-TO-CLEC**  
6 **CONNECTIONS?**

7 A: He absolutely does. At page 46, lines 27-29, Mr. Denney states: "A  
8 CLEC-to-CLEC connection does not fall within the FCC's definition of a fiber-based  
9 collocator and should not be counted as separate fiber-based collocations." However,  
10 immediately above this statement, at page 46, lines 21-26, he quotes the *TRRO* and the  
11 conditions that must exist in order for a carrier to be considered a fiber-based collocator.  
12 Specifically, he quotes footnote 292 to paragraph 102 of the *TRRO*, as stating:

13 We find that when a company has collocations facilities connected to fiber-  
14 transmission facilities obtained on an indefeasible right of use ("IRU") basis from  
15 another carrier, including the incumbent LEC, these facilities shall be counted for  
16 purposes of this analysis and shall be treated as non-incumbent LEC fiber  
17 facilities.  
18

19 Based on this clarification, a collocator obtaining facilities from another carrier, meeting  
20 these conditions, is operating non-incumbent fiber facilities. An efficient method for  
21 obtaining these facilities would be with a CLEC-to-CLEC connection as described in  
22 Figure 1 above. As such, if a collocator utilizes a CLEC-to-CLEC connection to obtain

1 non-incumbent fiber facilities, while otherwise meeting the criteria set forth by the FCC  
2 in the *TRRO*, it would be a legitimate fiber-based collocator.

3

4 **Q: PLEASE RESPOND TO MR. DENNEY'S ALLEGATION AT PAGE**  
5 **45 THAT CLEC-TO-CLEC CONNECTIONS RESULT IN "DOUBLING**  
6 **COUNTING" OF FIBER-BASED COLLOCATORS?**

7 A: Mr. Denney is mistaken. If we look back at my Figure 1, we can see that  
8 if we removed CLEC C entirely, both CLEC A and CLEC B would still meet the FCC's  
9 definition of a fiber-based collocator in all respects. Now, assume that CLEC C is back  
10 in the picture. Perhaps the CLEC-to-CLEC connection was simply a revenue-boosting  
11 move (understandable in today's economy) that may have prompted CLEC B to offer  
12 fiber facilities to CLEC C. Regardless, the result here would be that *both* CLEC B and  
13 CLEC C would be operating fiber facilities, both have deployed optronics that support  
14 those fiber facilities, and both are serving customers in the same wire center. Thus, if  
15 both collocators otherwise meet the FCC's definition as fiber-based collocators, both  
16 should be counted as a fiber-based collocator for non-impairment purposes.

17

18

19

20

1           **Q:    DOES THE FCC'S LANGUAGE SUPPORT YOUR CONCLUSION?**

2           A:    Absolutely. Paragraph 408 of the *TRO* clarifies the conditions under  
3 which to view and count a CLEC that may obtain facilities from a carrier other than the  
4 ILEC. Paragraph 408 of the *TRO* (unchanged by the *TRRO*) states:

5           We find, however, that when a company has obtained dark fiber from another  
6 carrier on a long-term IRU basis and activated that fiber with its own optronics,  
7 that facility should be counted as a *separate unaffiliated facility*. (Emphasis  
8 added.)  
9

10          A CLEC-to-CLEC connection is one method a collocator can use to access unaffiliated  
11 fiber-based facilities.

12          Paragraph 408 further states:

13                 ...the record suggests that competing carriers are able to engage and have  
14 engaged in joint efforts to deploy transport, so that imposing a trigger that  
15 requires each facility on a route to have been separately deployed would fail to  
16 consider and may inhibit such cooperative deployment efforts.  
17

18          Therefore, the FCC makes clear that even if two CLECs connect together, the  
19 arrangement may still yield multiple fiber-based collocators.

20

21           **Q:    THE JOINT CLECs APPEAR TO BE ASKING FOR QWEST TO**  
22 **EXPRESSLY CONFIRM THAT CLEC-TO-CLEC CONNECTIONS WERE NOT**  
23 **COUNTED IN THIS PROCEEDING, AS WELL AS IN FUTURE**  
24 **PROCEEDINGS. HOW DO YOU RESPOND?**

1           A:     Frankly, I am a bit confused. It is unclear whether Mr. Denny is asking  
2     that Qwest confirm that CLEC-to-CLEC connections were not a factor in this filing, or  
3     whether he is asking that Qwest confirm its intention to exclude such connections in  
4     future updates. In either case, it is Qwest's position that if a collocator otherwise meets  
5     the very specific definition of a fiber-based collocator, it is counted as such. If it does not  
6     meet these criteria, it is not counted as a fiber-based collocator. Moreover, if a collocator  
7     is cross-connected to another collocator in the same wire center, and both collocators  
8     otherwise meet these very specific criteria defining fiber-based collocators, both will be  
9     counted. Again, if one or the other of the cross-connected CLECs does not meet these  
10    very specific criteria, it will not be counted as a fiber-based collocator. Qwest is  
11    confident that its methodology accurately captures fiber-based collocators.

1                   **D. NOTIFICATION OF IMPENDING NON-IMPAIRMENT**  
2                   **IS UNNECESSARY**  
3

4           **Q:    HOW DOES QWEST RESPOND TO THE JOINT CLECs'**  
5           **RECOMMENDATION THAT QWEST SHOULD PROVIDE "ADVANCE**  
6           **NOTICE" OF WIRE CENTERS NEARING THE FCC'S NON-IMPAIRMENT**  
7           **THRESHOLD?**

8           A:    Qwest believes that such notification is completely unnecessary and  
9           immaterial. Mr. Denney and the Joint CLECs' state (at page 75, lines 12-13) that they  
10          require such information so that they can rationally plan future investment. However,  
11          notifying CLECs of when a given wire center is within one fiber-based collocater of a  
12          Tier 2 designation is immaterial since being within one fiber-based collocater of the  
13          threshold in a wire center does not necessarily indicate an imminent change in that wire  
14          center's impairment classification. My research indicates that, overall, a substantial  
15          percentage of Tier 3 wire centers with fiber-based collocators have already been  
16          identified as being within one fiber-based collocater of becoming a Tier 2 wire center (in  
17          other words, these wire centers have two fiber-based collocators and three are needed to  
18          become a Tier 2 wire center). Of these Tier 3 wire centers which are within one fiber-  
19          based collocater of meeting the non-impairment threshold (in other words, wire centers  
20          with two fiber-based collocators), the vast majority have been within one fiber-based

1 collocator since 2005 when the *TRRO* was issued, rendering the one-more-collocator  
2 notification requirement immaterial.

3 My research, as well as previous non-impairment filings, also show that changes  
4 in tier designations are often the result of more than one fiber-based collocator being  
5 provisioned in a wire center in the relatively short timeframe between Qwest's filings of  
6 non-impaired petitions, thus again making the one-more-collocator notification  
7 requirement moot (assuming that notification is undertaken simultaneously with a  
8 filing).<sup>4</sup> Finally, one cannot ignore that advance notification could facilitate the ability of  
9 a CLEC to take "creative advantage" of the situation by changing business its plans and  
10 network architectures to make it less likely that a particular wire center ever reaches a  
11 given threshold, or, at the very least, delay the inevitable change of a wire center's  
12 impairment status.

13  
14 **Q: HOW WOULD YOU RESPOND TO MR. DENNEY'S TESTIMONY**  
15 **THAT IT WOULD NOT MAKE SENSE FOR CLECs TO ALTER THEIR**  
16 **BUSINESS PLANS TO IMPACT A WIRE CENTERS NON-IMPAIRMENT**  
17 **STATUS?**

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<sup>4</sup> The research cited here is a review of existing data gathered in support of previous non-impairment filings and not a separate initiative to compile a list of wire centers approaching the non-impairment thresholds.

1           A:     His argument cannot be taken seriously or withstand credible scrutiny.  
2     One example is the mere fact that the Joint CLECs are intervenors in this proceeding, and  
3     that they have attempted to complicate what was intended to be a simple and self-  
4     effectuating process, clearly in an attempt to maintain access to UNEs at below market  
5     rates for as long as possible.

6           Mr. Denney's claims that wire centers nearing non-impairment status would  
7     likely spur investment and competition also ring hollow. For example, if one looks at  
8     many of the smaller wire centers across Qwest's territory, one sees a pattern of merging  
9     or acquiring of existing companies within the same wire centers in order to expand those  
10    companies' customer bases, instead of additional investment in new infrastructure (as  
11    claimed by Mr. Denney), which therefore lessens the number of actual competitors in a  
12    given wire center and thus the possibility of attaining a non-impairment status. The type  
13    of notification being recommended by the Joint CLECs can reasonably be seen as a road  
14    map for "gaming" the system.

15

16           **Q:     DOES THE *TRRO* CONTAIN A REQUIREMENT FOR AN ILEC**  
17    **TO PROVIDE NOTIFICATION WHEN WIRE CENTERS APPROACH A NON-**  
18    **IMPAIRMENT THRESHOLD?**

19           A:     No. It is apparent that the FCC did not contemplate any such notification  
20    since the *TRRO* does not contain any such requirement. Further, to my knowledge, and

1 as noted by Mr. Denney, only the Colorado Commission has imposed such a requirement.  
2 Moreover, I know for a fact that in the initial set of non-impairment proceedings in five  
3 other states in 2006 and 2007, prior to the Settlement Agreement, Mr. Denney had  
4 advocated on behalf of his then-employer for such an advance notice requirement, but  
5 none of the other state commissions accepted this recommendation. And, of course, the  
6 settling CLECs who were part of the original non-impairment dockets, including Integra,  
7 agreed not to include any such advance notification requirements.

8  
9 **Q: DOES REQUIRING SUCH ADVANCE NOTIFICATION PLACE**  
10 **AN UNDUE, AND ARGUABLY DISCRIMINATORY, BURDEN ON QWEST?**

11 A: Yes. Requiring that Qwest notify CLECs when a wire center is within one  
12 fiber-based collocator of non-impairment would place an undue burden on Qwest, both  
13 operationally and from a resource perspective. Not only would Qwest have to mobilize  
14 and fund such an effort beyond its current efforts in support of a non-impairment filing,  
15 but it would do so for no material benefit to itself or to CLECs. Notably, CLECs located  
16 in Qwest wire centers can already undertake essentially the same effort of counting fiber-  
17 based collocators in any given wire center without Qwest's involvement. Additionally,  
18 they too can seek validation from the CLECs collocated within the same wire centers.

19 Finally, in his testimony (beginning at page 74), Mr. Denney goes on in detail as  
20 to the limited capital dollars that CLECs have to invest in Idaho. Mr. Denney apparently

1 ignores the fact that Qwest is also in very much the same position. Nevertheless, he and  
2 the Joint CLECs seek to impose additional operational and resource requirements on  
3 Qwest, but for their sole (albeit, extremely limited) benefit. Essentially, the Joint CLECs  
4 are asking that Qwest subsidize their business planning and the direction of their future  
5 investment. This is wholly inappropriate.

6

7 **E. PROVISIONS OF THE MULTISTATE SETTLEMENT AGREEMENT**  
8 **REGARDING EXPRESS FIBER**  
9

10 **Q: HOW DOES QWEST RESPOND TO THE JOINT CLECs'**  
11 **RECOMMENDATION THAT A PROVISION IN THE SETTLEMENT**  
12 **AGREEMENT REGARDING EXPRESS FIBER SHOULD NOT BE INCLUDED**  
13 **IF THE COMMISSION ADOPTS THE PROCEDURES OF THE SETTLEMENT**  
14 **AGREEMENT IN IDAHO?**

15 A: At page 47, of his testimony, Mr. Denny cites a provision in the  
16 Settlement Agreement regarding how "express fiber" will be treated for purposes of non-  
17 impairment.<sup>5</sup> While the Settlement Agreement was intended to have broad application  
18 across multiple states, the provision regarding "express fiber" was included to address

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<sup>5</sup> "Express fiber, as part of the provision in question, was defined as a CLEC-owned fiber placed to the collocation by Qwest that terminates at CLEC-owned equipment in a collocation and that draws power from a remote location. This should not be confused with an "express fiber entrance facility," which is included as one of the verification criteria on the Collocation Verification worksheet.

1 specific circumstances that to date has been unique to one state. Additionally, the express  
2 fiber provision does not apply to any of the fiber-based collocators identified in Idaho.  
3 Thus, if the Commission adopts the procedures of the Settlement Agreement in Idaho,  
4 Qwest would not be opposed to excluding the “express fiber” provision. as Mr. Denney  
5 requests in his testimony.



1 collocator, depending on additional evidence that Qwest may have gathered regarding  
2 that CLEC's collocation. However, Qwest does not, as Mr. Denney suggests, take a  
3 CLEC's unresponsiveness as agreement that it is a fiber-based collocator, but rather,  
4 Qwest considers such lack of response as *only one factor* before compiling its final list of  
5 fiber-based collocators.

6 In addition, Qwest's physical field verifications provide a comprehensive and  
7 accurate validation of the presence of fiber-based collocators in a given wire center.  
8 These verifications have resulted in not only the validation of legitimate fiber-based  
9 collocators, but also in the removal of collocators that may have been initially  
10 misidentified. In short, these verifications perform the function for which they were  
11 designed. Furthermore, contrary to Mr. Denney's inflammatory rhetoric, Qwest's field  
12 verification process is conducted in an objective manner. This objectivity has been  
13 proven repeatedly by the resulting modification of the list of non-impaired wire centers  
14 based on information subsequently obtained during field verifications.

15 Further, while no CLEC-to-CLEC connections were present in either of the Boise  
16 Main or Boise West wire centers, this in no way negates the fact that a collocator  
17 utilizing a CLEC-to-CLEC connection, and otherwise meeting the *TRRO*'s criteria, is a  
18 valid fiber-based collocator. Additionally, this position is supported by FCC's language  
19 in the *TRRO*.

1           Additionally, the *TRRO* places no obligation on ILECs, such as Qwest, to provide  
2   advance notification of impending changes in a wire center's non-impairment status.  
3   Such notification is unnecessary and immaterial.  Additionally, while providing little, if  
4   any, benefit to CLECs or Qwest, such a requirement would place a discriminatory and  
5   undue burden on Qwest, particularly since CLECs can arrive at the same information  
6   independently and without Qwest's involvement.  It is no wonder, therefore, that every  
7   state commission but one has rejected Mr. Denney's recommendation for such "advance  
8   notification."

9           Finally, the express fiber provision of the Settlement Agreement does not apply to  
10  any of the fiber-based collocators identified in Idaho.  If the Commission adopts the  
11  procedures in the Settlement Agreement in Idaho, Qwest would not object to the  
12  exclusion of this particular provision.

