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UTILITIES COMMISSION

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October 19, 2009

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

*Via Email: jean.jewell@puc.idaho.gov
and Via Overnight Delivery*

Re: In the Matter of Qwest Corporation's Petition for Approval of Non-Impairment
Status for DS3 Loops in the Boise Main Wire Center
Docket No. QWE-T-09-15

Dear Ms. Jewell:

Enclosed for filing with the Commission in the above-referenced matter are an original and seven copies of the public and nonpublic versions of both the redlined and clean versions of Integra's Errata Comments. These Comments are to replace Integra's earlier Comments which were filed with the Commission on October 12, 2009. Also enclosed is the Certificate of Service.

Please contact Doug Denney if you have any questions at 503-453-8285.

Sincerely,

Joyce Pedersen
Regulatory Administrator
Integra Telecom
763-745-8465 (Direct)
763-745-8459 (Dept. Fax)
Joyce.Pedersen@integratelecom.com

Enclosures

cc: Mary Hobson
Alex Duarte

CERTIFICATE OF SERVICE

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I do hereby certify that on the 19th day of October, 2009, a true and correct copy of the foregoing Public and Non-Public Comments of Integra Errata Filing (redlines and clean) were filed and/or served upon the following individuals:

IDAHO PUBLIC UTILITIES COMMISSION

Via E-mail and Overnight Mail

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Dated: October 19, 2009.


Joyce Pedersen
Regulatory Administrator
Integra Telecom

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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF QWEST)	CASE NO. QWE-T-09-15
CORPORATION'S PETITION FOR)	
APPROVAL OF NON-IMPAIRMENT)	PUBLIC
STATUS FOR DS3 LOOPS IN THE BOISE)	COMMENTS OF INTEGRA
MAIN WIRE CENTER)	ERRATA FILING

I. INTRODUCTION AND SUMMARY

Integra Telecom of Idaho, Inc.; Electric Lightwave, LLC dba Integra Telecom; and Eschelon Telecom, Inc. dba Integra Telecom (collectively referred to as "Integra")¹ oppose the Petition of Qwest Corporation (Qwest's Petition) to classified the Boise Main wire center as non-impaired for DS3 loops. Qwest's Petition is incomplete and contains a number of errors that raises into question whether or not Qwest meets the FCC's threshold for DS3 loop non-impairment.² The issues with Qwest's filing are as follows: (A) Integra is unable to verify the loop count data Qwest associates with Integra; (B) The data upon which Qwest has relied to support its switched business line counts is almost a year old; (C) Qwest failed to provide fiber-based collocation supporting data, which is required to classify Boise Main as non-impaired for DS3 loops; and (D) Highly Confidential Albersheim Attachment A, which contains a summary of line count data, is unclear as the data is referenced as both December 2007 and December 2008 – both of which can't be correct. As a result of these inadequacies, Qwest's petition should be denied.

¹ Electric Lightwave, LLC dba Integra Telecom ("ELP") currently serves customers in Idaho.

² C.F.R. § 51.319(a)(5).

Integra requests that the Commission require (1) Qwest to use current data when requesting a change in the non-impairment status or Tier classification of a wire center; and (2) Qwest to provide all supporting data when making a request for a change in the non-impairment status or Tier classification of a wire center.

II. ANALYSIS

A. INTEGRA IS UNABLE TO VERIFY THE LOOP COUNT DATA QWEST ASSOCIATES WITH INTEGRA.

In most non-impairment cases to date, Integra has been able to verify Qwest's Integra specific line counts to such a degree that any discrepancies were minor and would not impact the proposed non-impairment designation. One exception is the Eagan-Lexington wire center in Minnesota, where Integra along with another CLEC found significant discrepancies with Qwest's data. Qwest subsequently was forced to withdraw its non-impairment proposal for that wire center admitting that its initial line count estimates were in error.³

Qwest's loop count data for Integra in the Boise Main is also proving difficult to validate, as was the case with Eagan-Lexington. For example, Qwest shows a significant number of EEL circuits belonging to Integra for the Boise Main wire center, while Integra cannot find a single EEL circuit associated with a customer that resides in those wire centers.⁴ However, in its review of its most recent loop count data,⁵ Integra has identified significantly more DS1 loop and

³ Minnesota Docket No. 07-865, Qwest Letter Withdrawing Wire Center, March 7, 2008. It is important to note that no signal CLEC had enough disputes to alter Qwest's line counts beyond the non-impairment threshold, but because two CLECs closely reviewed their data in combination the discrepancies were enough to challenge and force a withdrawal of Qwest's filing.

⁴ Note that we have a number of EEL circuits terminating to the Boise Main wire center serving customers that reside in other wire centers. However, these should not be included in the Boise Main loop counts. This has not been a point of contention in the past and it is not clear that this is the cause of the discrepancy in this case.

⁵ Integra's data is as of August 31, 2008, the date of Qwest's request for DS3 loop non-impairment.

2-wire loop circuits than Qwest has counted for Integra in these wire centers. The highly confidential table below shows the differences in the Integra and Qwest loop counts.

Table 1: Integra Loop Count Discrepancies

[Begin Highly Confidential]

Boise Main		
	Qwest counts for Integra	Integra Counts
2-wire loops	XXX	XXX
DS1 loops	XXX	XXX
DS1 EELs	XXX	XXX

[End Highly Confidential]

B. THE DATA UPON WHICH QWEST HAS RELIED TO SUPPORT ITS SWITCHED BUSINESS LINE COUNTS IS ALMOST A YEAR OLD.

Qwest has relied upon switched business line count data that is at least 8 months old at the time of Qwest's request for DS3 non-impairment in Boise Main.⁶

The issue of the appropriate time period to review both the switched business line count and the fiber-based collocation data is crucial as updates are made to Qwest's Wire Center List. This Commission should make clear that, as Qwest makes updates to its list, Qwest should use data that is contemporaneous with Qwest's claim for "non-impaired" status. First, Qwest should not be allowed to go fishing back through time in attempts to classify wire centers as non-impaired that do not currently meet the non-impairment status. As described above, it is difficult for CLECs to validate Qwest's line count data. It becomes exponentially more difficult the older the data becomes. Second, Qwest should not be allowed to select one set of data from one time

⁶ See issue E below. Qwest's supporting documentation makes it unclear whether Qwest relied upon December 2007 or December 2008 line count data.

period and another set of data from a different time period and then yet another time period to actually make its claim for non-impairment. For example, suppose there exists a wire center today that has four fiber-based collocators, but fewer than 38,000 lines. Suppose that the wire center surpasses 38,000 lines in the future, but by this time there are only three fiber-based collocators. Qwest should not be allowed to choose line counts from the present and fiber-based collocators from the past. The determination of “non-impaired” status should be made at the point in time that Qwest is claiming an office is “non-impaired,” not from a combination of counts from different time periods that best advantages Qwest.

Allowing Qwest to selectively choose the time period and data upon which it chooses to rely would put CLECs at a further substantial disadvantage regarding validation of Qwest’s data. It would also disadvantage CLEC business planning as to when and how to expand its presence in Idaho since it would have to take into account not only the current conditions of the market, but also the conditions as they existed in the past.

C. QWEST’S FAILURE TO SUPPLY FIBER-BASED COLLOCATION DATA, WHICH IS REQUIRED TO SUPPORT THE CLASSIFICATION OF BOISE MAIN AS NON-IMPAIRED FOR DS3 LOOPS.

When Qwest makes a request for DS3 (or DS1) loop non-impairment, Qwest needs to meet two tests. First, Qwest needs to demonstrate that the number that the number of switched business lines exceeds the line count threshold established by the FCC. Second, Qwest needs to demonstrate that the number of fiber-based collocators exceeds the fiber-based collocation threshold established by the FCC. In this petition Qwest only filed supporting data for switched business lines, but failed to provide supporting data for fiber-based collocations.

Qwest argues, “[b]ecause this Commission has already established the Boise Main wire center as a Tier 1 non-impaired wire center, based on the number of fiber-based collocators in that wire center, Qwest does not believe that the number of fiber-based collocators at that wire center needs to be readdressed for the purposes of a finding that the wire center has the requisite number of fiber-based collocators fro DS3 loop non-impairment.”⁷ This is incorrect.

The FCC determined that once a wire center meets *both* line count and fiber-based collocation thresholds for DS3 loops, “no future DS3 loop unbundling will be required in that wire center.”⁸ Qwest interprets this to mean that it can apply the fiber-based collocation standard from one time period and the switched business line standard from another time period. While Integra acknowledges that once Qwest has obtained Tier 1 status in a wire center the wire center cannot subsequently be reclassified as Tier 2 or Tier 3,⁹ this does not imply that Qwest no longer needs to meet the relevant criteria outline to obtain non-impairment status for a DS1 or DS3 loop.

Ms. Torrence states that she has reviewed the fiber-based collocations and confirmed “the presence of five fiber-based collocators in that wire center,”¹⁰ but Qwest failed to supply the required supporting documentation to support that claim and thus Qwest’s petition should be rejected.¹¹

⁷ Torrence Affidavit, ¶ 7.

⁸ C.F.R. § 51.319 (a)(5). A similar rule applies to DS1 loops.

⁹ C.F.R. § 51.319 (d)(3)(i). A similar rule applies to Tier 2 status.

¹⁰ Torrence Affidavit, ¶ 7.

¹¹ Integra recognizes that this Commission recently reviewed the number of fiber-based collocations in the Boise Main wire center and there were likely not material changes since that review that would impact whether or not Qwest meets the DS3 loop fiber-based collocation non-impairment threshold. However, this should not alter Qwest’s obligation to supply all supporting data when requesting a change in the non-impairment status or Tier classification for a wire center.

D. IT IS UNCLEAR WHAT TIME PERIOD QWEST'S SWITCHED BUSINESS LINE COUNTS REPRESENT.

Qwest's switched business line count summary for Boise Main contains two headings which make it unclear upon what time period Qwest relied upon to support its request for DS3 loop non-impairment. Highly Confidential Albersheim Attachment A contains the heading "Idaho 2008 Business Line Counts – December 2008," while the actual table containing switched line count summary data lists "200712" under "YRMO Data." This presumably refers to December 2007 as the Year ("YR") and the Month ("MO") of the data.

As discussed above,¹² Qwest should have relied upon line count data that is current with its request for non-impairment. However, in no event should Qwest have relied upon line count data that was 20 months old at the time Qwest made its filing.

III. CONCLUSION

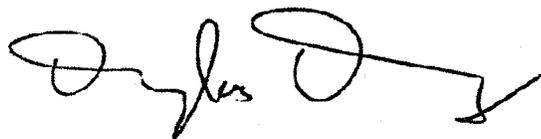
Qwest's petition requesting DS3 non-impairment status in the Boise Main wire center should be rejected simply based on the fact that Qwest failed to supply the required supporting fiber-based collocation data. In addition, Qwest's line count support should be rejected as it is unclear as to what time period it represents. Further, Qwest's line count data should reflect the time period associated with Qwest's filing.

Integra requests that the Commission require Qwest to properly file all supporting data before a wire center is classified as non-impaired. In addition, Integra requests that the Commission clarify whether Qwest must use current data when requesting a change in the non-impairment status or Tier classification of a wire center.

¹² See section C.

Dated this 19th day of October, 2009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Douglas K. Denney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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Company Representative, Integra

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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IN THE MATTER OF QWEST)	
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¹ Eletric Lightwave, LLC dba Integra Telecom ("ELI") currently serves customers in Idaho.

² C.F.R. § 51.319(a)(5).

December 2007 and December 2008 – both of which can't be correct. As a result of these inadequacies, Qwest's petition should be denied.

Integra requests that the Commission require, ~~(1) Qwest to exclude CLEC residential loops and CLEC non-switched lines from the CLEC switched business line counts;~~ ~~(21) Qwest to use current data when requesting a change in the non-impairment status or Tier classification of a wire center;~~ and ~~(32) Qwest to provide all supporting data when making a request for a change in the non-impairment status or Tier classification of a wire center.~~

II. ANALYSIS

A. INTEGRA IS UNABLE TO VERIFY THE LOOP COUNT DATA QWEST ASSOCIATES WITH INTEGRA.

In most non-impairment cases to date, Integra has been able to verify Qwest's Integra specific line counts to such a degree that any discrepancies were minor and would not impact the proposed non-impairment designation. One exception is the Eagan-Lexington wire center in Minnesota, where Integra along with another CLEC found significant discrepancies with Qwest's data. Qwest subsequently was forced to withdraw its non-impairment proposal for that wire center admitting that its initial line count estimates were in error.³

Qwest's loop count data for Integra in the Boise Main is also proving difficult to validate, as was the case with Eagan-Lexington. For example, Qwest shows a significant number of EEL circuits belonging to Integra for the Boise Main wire center, while Integra cannot find a single

³ Minnesota Docket No. 07-865, Qwest Letter Withdrawing Wire Center, March 7, 2008. It is important to note that no signal CLEC had enough disputes to alter Qwest's line counts beyond the non-impairment threshold, but because two CLECs closely reviewed their data in combination the discrepancies were enough to challenge and force a withdrawal of Qwest's filing.

EEL circuit associated with a customer that resides in those wire centers.⁴ However, in its review of its most recent loop count data,⁵ Integra has identified significantly more DS1 loop and 2-wire loop circuits than Qwest has counted for Integra in these wire centers. The highly confidential table below shows the differences in the Integra and Qwest loop counts.

Table 1: Integra Loop Count Discrepancies

[Begin Highly Confidential]

Boise Main		
	Qwest counts for Integra	Integra Counts
2-wire loops	XXX	XXX
DS1 loops	XXX	XXX
DS1 EELs	XXX	XXX

[End Highly Confidential]

B. QWEST'S METHODOLOGY FOR COUNTING CLEC SWITCHED BUSINESS LINES OVERSTATES THE NUMBER OF SWITCHED BUSINESS LINES.

The FCC defines a Business Line as follows:⁶

~~A business line is an incumbent LEC owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end user customers with incumbent LEC end offices for switched services, (2) shall not include non-switched special access lines, (3) shall~~

⁴ Note that we have a number of EEL circuits terminating to the Boise Main wire center serving customers that reside in other wire centers. However, these should not be included in the Boise Main loop counts. This has not been a point of contention in the past and it is not clear that this is the cause of the discrepancy in this case.

⁵ Integra's data is as of August 31, 2008, the date of Qwest's request for DS3 loop non-impairment.

⁶ ~~47 C.F.R. § 51.5, Terms and Definitions, Business Line.~~

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

~~There are a number of problems with Qwest's switched business line counts used to support its petition. Qwest makes two related errors that lead Qwest to overstate CLEC switched business line counts and thus makes Qwest's total switched business line counts unreliable. Qwest has previously made clear that Qwest counted all UNE loops in its count of business lines.⁷ By doing so, Qwest improperly inflates the count of business lines in the following ways:~~

- ~~• Qwest improperly counts UNE L lines that are used to serve residential and not business customers.~~
- ~~• Qwest improperly counts unutilized capacity and capacity used to provide data services in its UNE L line counts.~~

~~RESIDENTIAL LOOPS SHOULD NOT BE COUNTED IN THE SWITCHED BUSINESS LINE COUNTS~~

~~It is improper to count UNE loops used to serve residential customers because the point of the TRRO's line count measure is to size the business (not residential) market. This is evident from the first sentence of the FCC's business line definition, which is as follows:~~

~~A business line is an incumbent LEC owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements,~~

⁷ ~~Albersheim Direct, Docket QWE 08-07, p. 34, line 1.~~

~~business line tallies (1) shall include only those access lines connecting end-user customers with incumbent LEC end offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps equivalents, and therefore to 24 "business lines."~~⁸

~~Qwest reads the second sentence of the above rule in isolation from the rest of the definition to prop up Qwest's proposal to include CLEC residential and non-switched lines (served via Qwest UNE loops) in the switched business line count. As correctly observed by the ALJ in the Colorado Wire Center Case, while on the surface the second sentence may suggest counting all UNE loops, a complete reading of this rule indicates the exact opposite. Below is the Colorado Commission's explanation of why UNE loops serving residential customers should be excluded:~~

~~According to the ALJ's reasoning, to include residential loops in the count of business lines in a wire center would impermissibly conflict with the first sentence and would not give meaning to the entire rule. Consequently, the ALJ determined that the term "business lines" in the second sentence must restrict the subsequent phrase "such that all UNE loops must be confined within the scope of business line as defined in the first sentence of the paragraph."... As such, the ALJ concluded that given the plain language of 47 C.F.R. § 51.5, it is illogical to conclude that a residential line is a business line. A non-switched UNE loop providing service to a residential customer conflicts with both the first sentence of the rule, as well as the third sentence; therefore, the UNE loop component of the business line calculation by wire center, is to be modified to exclude residential and non-switched lines.~~⁹

~~The FCC's rule requires that the business line counts include only lines used to serve business customers that are switched. In contrast, Qwest's business line count methodology~~

⁸—47 C.F.R. § 51.5 Terms and Definitions, Business Line. (emphasis added).

⁹—Colorado RRR Decision, p. 3 (footnote referencing the specific paragraph of the ALJ Recommended Decision is omitted), attached to this testimony as part of Exhibit 202.

~~includes lines used to service residential (not business) customers as well as lines that are not switched. In addition to violating the express language of the rule and being inconsistent with the intent of the rule, Qwest's claim that a residential or non-switched line should be counted as a switched business line simply does not make sense.~~

~~Qwest could have easily removed residential loops from its switched business line counts. When a CLEC orders a loop from Qwest there is a mandatory field on the Local Service Request ("LSR") where the CLEC indicates whether the loop will be used to serve a business, residence or government customer. Thus, Qwest has information in its possession to enable it to remove residential loops from its calculation of switched business line counts.~~

**~~NON-SWITCHED CAPACITY OF LOOPS USED TO SERVE BUSINESSES
SHOULD NOT BE INCLUDED IN SWITCHED BUSINESS LINE COUNTS~~**

~~In addition to its error in counting residential loops, Qwest counts all UNE L at their maximum potential capacity and assumes that this full capacity is dedicated to serve voice switched demand, which means that Qwest counts all high capacity/digital DS1 UNE L as 24 individual business switched lines. This approach inappropriately counts channels on the high capacity/digital UNEs that do not provide switched business services—a prerequisite to a *line* being counted as a *business line*. This method inappropriately assumes that every available channel on an unbundled high capacity loop (or its equivalent digital capacity) is being used to support switched business services, when in fact, much of that capacity might not be used at all (vacant), and some portion of that capacity in most circumstance will almost certainly be used for data services.~~

~~The lines that are included in the business line count must comply with the entire definition of business line, which means that these lines must be: (1) used to serve a business customer; and (2) used to provide switched services (i.e., voice); and to the extent consistent with these requirements, (3) each 64 kbps channel should be evaluated as one line. In addition, as discussed above, whether a line is counted as a business line or not, should not depend upon whether the customer is served by Qwest or the CLEC.⁴⁰ Qwest must use the same methodology for counting CLEC lines as it does in counting its own business lines.~~

~~The FCC is clear that Qwest retail switched business line counts should be counted the same as unbundled loop counts. Immediately after identifying the types of lines that are candidates to be counted as business lines, the definition adopts limiting language with the phrase "among these requirements," thereby making clear that the limiting criteria of the definition apply equally to UNE L arrangements as well as ILEC retail line counts.~~

~~Qwest has not applied the FCC's limiting criteria correctly. Just like the above discussed case of UNE loops that serve residential customer, Qwest's application of the FCC definition is based on reading isolated components of the definition of business line in a way that conflicts with other provisions:~~

~~First, Qwest places great emphasis on the second sentence of the definition which, when read in isolation, states:~~

~~The number of business lines in a wire center shall equal the sum of all incumbent LEC business switched access lines, plus the sum of all UNE~~

⁴⁰ ~~This parity requirement is contained within the first sentence of the business line definition: "an incumbent LEC owned switched access lines used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC."~~

~~loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements.~~

~~As interpreted by Qwest, it claims that the sentence permits it to count all UNE L, without regard to whether the lines satisfy any of the requirements to be considered a “business line.”~~

~~Second, Qwest exploits an example in the definition as an unconditional directive that the maximum potential capacity of high-speed digital services *should* be counted, again without regard to whether any of the threshold requirements to be counted as a business line are being satisfied.~~

~~Importantly, however, there are no absolute instructions in the definition that require that all UNE loops — much less every 64 kbps channel — be counted as a business line, whether or not they otherwise meet the requirements of the definition. As explained above, the definition applies additional requirements to both UNE loop arrangements and Qwest’s retail lines that also must be satisfied before “a line” can be counted as a “business line.” This is true for individual analog lines, as well as each digital line to which Qwest has counted at its maximum, theoretical capacity.~~

~~It is incorrect to count every DS1 loop by its maximum potential capacity (i.e., as switched business lines in all instances). Qwest counts every high capacity/digital UNE loop assuming that the maximum potential capacity is used to provide switched business line service, when it understands fully, that such a circumstance is by far the exception, as opposed to the rule, in today’s marketplace. Qwest appears to base its view on its selective reading of the final instruction, which indicates that the business line count:~~

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

~~Importantly, a proper reading of the above instruction does not direct Qwest to count each channel in a high capacity circuit as a "business line." The critical sentence in the quote cited above is that Qwest "shall account for ISDN and other digital access lines by counting each 64 kbps equivalent as one line" (emphasis added). This requirement, however, does nothing more than what it *plainly* states, *i.e.*, that each 64 kbps equivalent should be considered "one line." Whether or not these lines should be counted as business lines, however, depends upon whether the remaining requirements of the FCC definition are satisfied.~~

~~The fact that the definition provides an example of how the analysis might count a DS1 does not require that Qwest or the Commission, ignore situations in which a similar DS1 might provide very little switched business service. Indeed, had the FCC wanted to declare all high capacity services and circuits as business lines, it could have easily simplified the definition to say so. But the FCC did not. It directed that each 64 kbps equivalent be considered one line, and then directed that other criteria—most specifically, that the line also be used to provide switched access line service to a business customer (*i.e.*, voice service)—be used to determine whether each "line" should be considered a business line.~~

~~Qwest's ARMIS data does not count Qwest's retail switched business lines at their maximum potential capacity. The ARMIS instructions permit Qwest to count "only those access lines connecting end users with their end offices for switched services,"⁴⁴ which is the same~~

⁴⁴ ~~<http://www.fcc.gov/wcb/armis/documents/2004PDFs/4308c04.pdf> at page 20.~~

requirement as in the FCC's definition of "business lines" for its unbundling framework.¹² And explained earlier, the FCC's business line definition directs that lines be counted whether the line is served by the ILEC or the CLEC. Thus, whether the line is a Qwest retail line, or a UNE loop arrangement used by a CLEC to provide service, the same criteria apply. Importantly, the term "business switched access lines" is a defined term in ARMIS 43-08, which is the report that the FCC directed be used to measure ILEC retail lines.¹³ The ARMIS reporting instructions require that Qwest report its lines in voice equivalents,¹⁴ but, importantly, does not permit Qwest to count empty circuits or data circuits.¹⁵ Simply put, Qwest may not count empty or data circuits on a DS1 used to provide service to one of its customers (it may only count the activated circuit-paths). That is perfectly consistent with the FCC's rules with respect to counting business access lines relative to impairment, unfortunately, that is not the process Qwest undertook.

Since empty (unused) and non-switched circuits would not be counted under Qwest's retail line counts, but would be counted under CLEC UNE L counts, Qwest would be allowed to count empty capacity and data circuits simply because the customer switched to the CLEC.

CLECs do not use high capacity UNE L at their maximum potential capacity for purposes of providing exclusively switched business services. CLECs provide sophisticated data services (e.g., high speed internet access, web hosting, IP address, DNS, email services) over

¹² The first limiting factor in the FCC's definition of a business line is that "business lines": "shall include only those access lines connecting end-user customers with incumbent LEC end-offices for switched services." 47 C.F.R. § 51.5.

¹³ *TRRO*, ¶ 105, fn. 303.

¹⁴ See <http://www.fcc.gov/web/armis/documents/2004PDFs/4308c04.pdf> (page 21) defining ARMIS 43-08 Business Switched Access Lines as "total voice-grade equivalent analog or digital switched access lines to business customers." (emphasis added)

¹⁵ Page 20 of the instructions for ARMIS 43-08 like the FCC's business line definition makes clear that Qwest may count "only those lines connecting end-user customers with their end-offices for switched services."

~~these loops. These services, while utilizing bandwidth (or 64 kbps channels) on the CLEC's DS1 loop, are not switched business lines, and should therefore not be included in the count of business lines.~~

~~Complying with the FCC's full and complete definition of "business line" is not simply a matter of convenience. The rule makes clear that *only* switched business lines are to be counted—not the maximum potential capacity which would include empty circuits and data circuits. Hence, even if Qwest does not know the utilization rate of CLEC UNE L for switched business lines, Qwest cannot simply toss out part of the FCC's definition and count all UNE Ls at their maximum potential capacity regardless of whether they meet the other applicable criteria. One option would be for Qwest could request this information from CLECs as part of its request for a change in the non-impairment status of a wire center. Another option would be for the Commission to require CLECs to provide this data when Qwest makes a filing involving switched business line counts.~~

CB. THE DATA UPON WHICH QWEST HAS RELIED TO SUPPORT ITS SWITCHED BUSINESS LINE COUNTS IS ALMOST A YEAR OLD.

Qwest has relied upon switched business line count data that is at least 8 months old at the time of Qwest's request for DS3 non-impairment in Boise Main.¹⁶

The issue of the appropriate time period to review both the switched business line count and the fiber-based collocation data is crucial as updates are made to Qwest's Wire Center List. This Commission should make clear that, as Qwest makes updates to its list, Qwest should use data that is contemporaneous with Qwest's claim for "non-impaired" status. First, Qwest should

¹⁶ See issue E below. Qwest's supporting documentation makes it unclear whether Qwest relied upon December 2007 or December 2008 line count data.

not be allowed to go fishing back through time in attempts to classify wire centers as non-impaired that do not currently meet the non-impairment status. As described above, it is difficult for CLECs to validate Qwest's line count data. It becomes exponentially more difficult the older the data becomes. Second, Qwest should not be allowed to select one set of data from one time period and another set of data from a different time period and then yet another time period to actually make its claim for non-impairment. For example, suppose there exists a wire center today that has four fiber-based collocators, but fewer than 38,000 lines. Suppose that the wire center surpasses 38,000 lines in the future, but by this time there are only three fiber-based collocators. Qwest should not be allowed to choose line counts from the present and fiber-based collocators from the past. The determination of "non-impaired" status should be made at the point in time that Qwest is claiming an office is "non-impaired," not from a combination of counts from different time periods that best advantages Qwest.

Allowing Qwest to selectively choose the time period and data upon which it chooses to rely would put CLECs at a further substantial disadvantage regarding validation of Qwest's data. It would also disadvantage CLEC business planning as to when and how to expand its presence in Idaho since it would have to take into account not only the current conditions of the market, but also the conditions as they existed in the past.

DC. QWEST'S FAILURE TO SUPPLY FIBER-BASED COLLOCATION DATA, WHICH IS REQUIRED TO SUPPORT THE CLASSIFICATION OF BOISE MAIN AS NON-IMPAIRED FOR DS3 LOOPS.

When Qwest makes a request for DS3 (or DS1) loop non-impairment, Qwest needs to meet two tests. First, Qwest needs to demonstrate that the number that the number of switched business lines exceeds the line count threshold established by the FCC. Second, Qwest needs to demonstrate that the number of fiber-based collocators exceeds the fiber-based collocation

threshold established by the FCC. In this petition Qwest only filed supporting data for switched business lines, but failed to provide supporting data for fiber-based collocations.

Qwest argues, “[b]ecause this Commission has already established the Boise Main wire center as a Tier 1 non-impaired wire center, based on the number of fiber-based collocators in that wire center, Qwest does not believe that the number of fiber-based collocators at that wire center needs to be readdressed for the purposes of a finding that the wire center has the requisite number of fiber-based collocators for DS3 loop non-impairment.”¹⁷ This is incorrect.

The FCC determined that once a wire center meets *both* line count and fiber-based collocation thresholds for DS3 loops, “no future DS3 loop unbundling will be required in that wire center.”¹⁸ Qwest interprets this to mean that it can apply the fiber-based collocation standard from one time period and the switched business line standard from another time period. While Integra acknowledges that once Qwest has obtained Tier 1 status in a wire center the wire center cannot subsequently be reclassified as Tier 2 or Tier 3,¹⁹ this does not imply that Qwest no longer needs to meet the relevant criteria outlined to obtain non-impairment status for a DS1 or DS3 loop.

Ms. Torrence states that she has reviewed the fiber-based collocations and confirmed “the presence of five fiber-based collocators in that wire center,”²⁰ but Qwest failed to supply the

¹⁷ Torrence Affidavit, ¶ 7.

¹⁸ C.F.R. § 51.319 (a)(5). A similar rule applies to DS1 loops.

¹⁹ C.F.R. § 51.319 (d)(3)(i). A similar rule applies to Tier 2 status.

²⁰ Torrence Affidavit, ¶ 7.

required supporting documentation to support that claim and thus Qwest's petition should be rejected.²¹

ED. IT IS UNCLEAR WHAT TIME PERIOD QWEST'S SWITCHED BUSINESS LINE COUNTS REPRESENT.

Qwest's switched business line count summary for Boise Main contains two headings which make it unclear upon what time period Qwest relied upon to support its request for DS3 loop non-impairment. Highly Confidential Albersheim Attachment A contains the heading "Idaho 2008 Business Line Counts – December 2008," while the actual table containing switched line count summary data lists "200712" under "YRMO Data." This presumably refers to December 2007 as the Year ("YR") and the Month ("MO") of the data.

As discussed above,²² Qwest should have relied upon line count data that is current with its request for non-impairment. However, in no event should Qwest have relied upon line count data that was 20 months old at the time Qwest made its filing.

III. CONCLUSION

Qwest's petition requesting DS3 non-impairment status in the Boise Main wire center should be rejected simply based on the fact that Qwest failed to supply the required supporting fiber-based collocation data. In addition, Qwest's line count support should be rejected as it is unclear as to what time period it represents. Further, Qwest's line count data should reflect the

²¹ Integra recognizes that this Commission recently reviewed the number of fiber-based collocations in the Boise Main wire center and there were likely not material changes since that review that would impact whether or not Qwest meets the DS3 loop fiber-based collocation non-impairment threshold. However, this should not alter Qwest's obligation to supply all supporting data when requesting a change in the non-impairment status or Tier classification for a wire center.

²² See section C.

time period associated with Qwest's filing and ~~Qwest should exclude residential and non-switched lines from CLEC switched business line counts.~~

Integra requests that the Commission require Qwest to properly file all supporting data before a wire center is classified as non-impaired. In addition, Integra requests that the Commission clarify ~~whether Qwest should exclude CLEC residential loops and CLEC non-switched lines from the CLEC switched business line counts and whether Qwest must use~~ current data when requesting a change in the non-impairment status or Tier classification of a wire center.

Dated this ~~12th~~-19th day of October, 2009.

Respectfully submitted,



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