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BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

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)
_____)

DIRECT TESTIMONY OF VICTORIA HUNNICUTT
QWEST CORPORATION

APRIL 17, 2009

TABLE OF CONTENTS

	Page
I. IDENTIFICATION OF WITNESS	1
II. PURPOSE OF DIRECT TESTIMONY	3
III. FCC GOVERNING RULES AND RATE JURISDICTION	4
IV. UNE TO PRIVATE LINE CONVERSION	12
V. APPLICATION OF UNE PRICING STANDARDS TO NON-UNES	19
VI. CONCLUSION	20

1
2
3
4
5
6
7
8
9
10
11
12
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14
15
16
17
18
19
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I. IDENTIFICATION OF WITNESS

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

A. My name is Victoria Hunnicutt. My business address is 1801 California Street, Denver, Colorado. I am employed by Qwest Corporation as a Director supporting costs and issues management.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EMPLOYMENT EXPERIENCE.

A. I have earned a Bachelor of Science in Electrical Engineering from the University of Virginia. In addition, I have taken numerous telecommunications seminars and classes including graduate courses in Telecommunications Management.

I have been employed by Qwest (formerly, US West) since 1998. My original position was with the transport modeling team in the Pricing and Regulatory Matters department as a Cost Analyst. In 1999, I assumed responsibility for the Collocation Cost Model, programming the model and producing the cost studies for the various Qwest Corporation cost dockets. In 2003, I began working on analyses and documentation as part of the Loop Modeling team. In 2004, I began work as a technical analyst and developer in the Public Policy department. Presently, my responsibilities include, but are not limited to, technical and cost analyses, as well as providing subject matter expert support on collocation issues in regulatory proceedings.

1 Prior to coming to Qwest, I worked as a computer consultant/programmer, as well
2 as a resource management consultant for a software company.

3 **Q. HAVE YOU TESTIFIED BEFORE THIS COMMISSION BEFORE?**

4 A. No, I have not.

5

1 **III. FCC GOVERNING RULES AND RATE JURISDICTION**

2 **Q. IS QWEST ENTITLED TO RECOUP THE COSTS FOR SERVICES**
3 **RENDERED ON BEHALF OF CLECs IN CONVERTING FROM UNE**
4 **SERVICES TO FEDERALLY TARIFFED SPECIAL ACCESS/PRIVATE LINE**
5 **(“PRIVATE LINE”) SERVICES?**

6 A. Yes. Qwest incurs costs in the process of converting the requesting
7 CLEC’s UNE transport or high-capacity loops to alternative facilities and arrangements
8 and, therefore, should be permitted to assess an appropriate charge.⁴ If the CLEC
9 chooses to avail itself of facilities other than those offered by Qwest, the CLEC would
10 not be charged because Qwest would not incur the costs of performing the tasks
11 associated with conversion of UNE facilities to alternative facilities precipitated by a
12 determination of wire center non-impairment.

13 **Q. IS THIS DOCKET THE CORRECT VENUE TO DETERMINE**
14 **THE APPROPRIATE RATE AMOUNT TO CHARGE FOR THE CONVERSION**
15 **PROCESS?**

16 A. No, I do not believe so. This docket addresses the non-impairment status
17 of two Idaho wire centers. As I discuss in greater detail below, this is not the appropriate
18 venue to address issues that fall under the FCC’s jurisdiction. Furthermore, the *TRRO* is

The *TRRO* reversed the *TRO*, in part. The *TRRO* also clarified the impairment standard adopted in the *TRO* and modified its application of the unbundling framework. Please refer to Ms. Albersheim’s Direct Testimony (Idaho Case No. QWE-T-08-07, dated April 17, 2009) (“Albersheim Direct”) for a summary of the FCC’s *TRO* and the *TRRO*.

⁴ Please see Albersheim Direct regarding UNE transport and high-capacity loops.

1 clear that with a non-impairment designation the parties must *negotiate*, in good faith,
2 reasonable processes and procedures to ensure that the completion of the conversion
3 process is timely.⁵ As discussed in Ms. Albersheim's Direct Testimony, Qwest and a
4 number of CLECs have negotiated these processes and procedures and arrived at a
5 settlement that includes an appropriate conversion charge.

6 **Q. WHAT FCC RULES GOVERN THE PRICING OF UNES?**

7 A. Sections 251 and 252 of the Act under *Part II – Development of*
8 *Competitive Markets*, address the carrier obligations and the standards for pricing UNES.
9 Section 251, *Interconnection*, details the duties and obligations of all local exchange
10 carriers, including the obligation of the ILEC to provide unbundled access to any
11 requesting telecommunications carrier in order to further the development of competitive
12 markets. Section 252 of that same Part, *Procedures for Negotiation, Arbitration, and*
13 *Approval of Agreements*, sets forth the expectations associated with negotiations of rates,
14 terms and conditions for interconnection, services, and network elements pursuant to
15 section 251. Under Section 271 of the Act,⁶ adherence to Sections 251 and 252 was a
16 requirement for Bell Operating Companies (“BOCs”) to enter into interLATA services
17 such as interLATA long distance. The FCC is clear in sections 251 and 252 that the state
18 commissions have jurisdiction over UNE rates, terms and conditions.

⁵ See *TRRO*, ¶ 233, at page 133.

⁶ Section 271, *Bell Operating Company Entry Into InterLATA Services*, falls under *Part III – Special Provisions Concerning Bell Operating Companies* and provides a competitive checklist with which each Bell Operating Company (“BOC”) was required to demonstrate compliance with in order to offer interLATA long distance services.

1 **Q. ONCE COMPETITION HAS BEEN CONFIRMED THROUGH**
2 **THE DESIGNATION OF A NON-IMPAIRED WIRE CENTER, WHAT PRICING**
3 **RULES GOVERN THE RATES, TERMS AND CONDITIONS ASSOCIATED**
4 **WITH THE NON-UNE ELEMENT?**

5 A. Sections 201 and 202 under *Part I – Common Carrier Regulation*, of the
6 Act address the standards for pricing elements that have been removed from the list of
7 Section 251 UNEs (delisted UNEs). Section 201, *Service and Charges*, addresses the
8 duties of every common carrier engaged in interstate or foreign communication to
9 furnish such communication services such that all charges, practices, classifications, and
10 regulations for and in connection with such communications service shall be just and
11 reasonable.⁷ The FCC has jurisdiction over delisted UNEs that fall under section 271 and
12 which rates are filed in interstate tariffs.

13 **Q. DOES THE FCC ADDRESS PRICING OF “DELISTED” UNEs**
14 **(FORMER UNEs THAT HAVE BEEN REMOVED FROM THE LIST OF**
15 **SECTION 251 UNEs)?**

16 A. Yes, the FCC is clear on this issue. In paragraph 656 of the *TRO*, the FCC
17 made the following statement addressing sections 251, 252 and pricing under a non-
18 impairment scenario:

19 Where there is no impairment under section 251 and a network element is no
20 longer subject to unbundling, **we look to section 271 and elsewhere in the Act**

⁷ See the FCC's *Communications Act of 1934, Title II – Common Carriers, Part I – Common Carrier Regulation*, Section 201(b), at page 36.

1 **to determine the proper standard for evaluating the terms, conditions, and**
2 **pricing...**⁸ (Emphasis added.)

3 In that same paragraph of the *TRO*, the FCC is more specific in its discussion of
4 transitional pricing issues:

5 Congress established a pricing standard under section 252 for network elements
6 unbundled pursuant to section 251 *where impairment is found to exist*. Here,
7 however, we are discussing the appropriate pricing standard for these network
8 elements where there is no impairment. Under the no impairment scenario,
9 section 271 requires these elements to be unbundled, but not using the statutorily
10 mandated rate under section 252. As set forth below, we find that the appropriate
11 inquiry for network elements required only under section 271 is to assess whether
12 they are priced on a just, reasonable and not unreasonably discriminatory basis –
13 the standards set forth in sections 201 and 202. (Emphasis is original.)⁹

14 In the next paragraph, the FCC specifically addresses the appropriate application of
15 sections 251 and 252 on network elements:

16 Section 252(d)(1) provides the pricing standard “for network elements for
17 purposes of [section 251(c)(3)],” and does not, by its terms, apply to network
18 elements that are required only under section 271. Indeed, section 252(d)(1) is
19 quite specific that it only applies for the purposes of implementation of section
20 251(c)(3) – meaning *only where there has been a finding of impairment* with
21 regard to a given network element. [Footnote omitted.] (Emphasis added.)¹⁰

22 To summarize my point, before any conversion is required by the FCC ruling, there must
23 be a non-impairment designation. Once a state commission has confirmed non-
24 impairment, according to the FCC, the pricing standards set forth in sections 201 and 202
25 of the Act (not those in sections 251 and 252) govern.

⁸ See *TRO*, ¶ 656, at page 409.

⁹ See *TRO*, ¶ 656, at page 409. Although the *TRO* was reversed in part by the D.C. Circuit in the *USTA II* decision, this part of the *TRO* was not reversed.

¹⁰ See *TRO*, ¶ 657, at page 409.

1 **Q. FOR A NETWORK ELEMENT UNDER SECTION 271 AS**
2 **DISCUSSED IN THE QUOTATION IN THE PREVIOUS ANSWER, WHAT IS**
3 **THE BASIS FOR DETERMINING AN APPROPRIATE RATE?**

4 A. The FCC has stated that such elements must “be priced on a just,
5 reasonable and not unreasonably discriminatory basis – the standards set forth in sections
6 201 and 202.” [Footnote omitted.]¹¹

7 **Q. HAS THE FCC ADDRESSED HOW A BELL OPERATING**
8 **COMPANY (“BOC”) LIKE QWEST MIGHT SATISFY THIS STANDARD?**

9 A. Yes, in the *TRO*, the FCC listed two examples of how a BOC might satisfy
10 this standard:

- 11 1. “[D]emonstrate] that the rate for a section 271 network element is at or below
12 the rate at which the BOC offers comparable functions to similarly situated
13 purchasing carriers under its interstate access tariff, to the extent such
14 analogues exist,”¹² or
- 15 2. “[D]emonstrate that the rate at which it offers a section 271 network element
16 is reasonable by showing that it has entered into arms-length agreements
17 with other, similarly situated purchasing carriers to provide the element at
18 that rate.”¹³

¹¹ *TRO*, ¶ 656, at page 409.

¹² *TRO*, ¶ 664, at page 412.

¹³ *Id.*

1 **Q. REGARDING THE FIRST EXAMPLE, ABOVE, CAN QWEST**
2 **DEMONSTRATE THAT THE CONVERSION CHARGE IT INTENDS TO**
3 **ASSESS IS AT OR BELOW THE RATE AT WHICH QWEST OFFERS**
4 **COMPARABLE FUNCTIONS TO SIMILARLY-SITUATED CARRIERS UNDER**
5 **ITS INTERSTATE ACCESS TARIFF?**

6 A. Yes. The \$25 conversion rate is based on the Design Change Charge
7 found in Qwest's FCC Tariff No. 1¹⁴ with a 50% rate reduction applied when assessed for
8 the conversion of UNE services to finished Private Line services. The 50% reduction
9 factor applied to the federally tariffed Design Change Charge was a negotiated amount,
10 pursuant to the FCC transitional Rules, and agreed to in the settlement discussions
11 described in Ms. Albersheim's Direct Testimony. The Settlement Agreement that
12 resulted from those discussions has been approved in five states and provides for the
13 conversion rate at \$25.

14 **Q. REGARDING THE SECOND EXAMPLE, ABOVE, HAVE**
15 **SIMILARLY-SITUATED CARRIERS ENTERED INTO AN ARMS-LENGTH**
16 **AGREEMENT TO PROVIDE THE ELEMENT AT THE SAME RATE?**

17 A. Yes, numerous CLECs have entered into the Settlement Agreement,
18 mentioned above, providing for the \$25 conversion charge. In addition, 146
19 interconnection agreements containing the same conversion charge have been entered

¹⁴ See Qwest's FCC Tariff No. 1, Section 5.2.2.C, at 2nd Revised Page 23. Qwest's FCC Tariff No. 1 can be found at http://tariffs.qwest.com:8000/Q_Tariffs/FCC/index.htm. The 50% reduction of the Design Change Charge is noted in the footnote associated with the rate.

1 into across Qwest's 14-state region. Of the 146 agreements providing the element at that
2 rate, eight of them were with CLECs operating in Idaho.

3 **Q. IS QWEST ASKING THIS COMMISSION TO ACKNOWLEDGE**
4 **ITS RIGHT TO ASSESS AN APPROPRIATE CHARGE FOR THE WORK THAT**
5 **IT PERFORMS IN THE CONVERSION PROCESS?**

6 A. Yes. I am demonstrating with this testimony the nature and cause of the
7 work activities that Qwest will perform in processing the conversions from UNE services
8 to Qwest Private Line services that will occur at those wire centers the FCC has deemed
9 non-impaired. For the reasons stated above and pursuant to the FCC rules, Qwest
10 believes that its existing, federally tariffed Design Change Charge represents an
11 appropriate, albeit conservative, charge to CLECs for costs incurred by Qwest to process
12 these conversions on behalf of the CLECs. Qwest respectfully asks this Commission
13 merely to acknowledge Qwest's right to assess such a negotiated and federally tariffed
14 charge to recoup a portion of its costs incurred for the work that it performs on behalf of
15 the CLEC.

16 **Q. IF QWEST BELIEVES THIS IS NOT THE PROPER**
17 **JURISDICTION FOR RATE APPROVAL OF A FORMER UNE, WHY IS IT**
18 **PRESENTING THE RATE TO THIS COMMISSION?**

19 A. The FCC declined suggestions to adopt rules establishing specific
20 procedures that ILECs and CLECs must follow to convert to non-section 251 services,
21 with the expectation that both parties have enough incentive to negotiate, and not litigate,

1 to establish any necessary procedures to perform conversions.¹⁵ For this reason, Qwest is
2 neither submitting a cost study nor is it requesting *approval* of a particular rate. Rather,
3 Qwest is simply asking that this Commission acknowledge that Qwest is entitled to be
4 compensated for the costs that it incurs in the seamless conversion from UNE services to
5 alternative services (such as finished Private Line services) should a CLEC request to
6 remain on Qwest facilities after a non-impairment designation. Qwest makes this request
7 with the hope that such acknowledgement will serve the FCC's goal of encouraging
8 ILECs and CLECs to negotiate in good faith regarding any *rates*, terms, and conditions
9 necessary to implement the FCC rule changes,¹⁶ and to ensure that parties do not engage
10 in unnecessary delay in implementing the FCC's rule changes,¹⁷ through litigation or by
11 other means.

12

¹⁵ See *TRO*, ¶ 585, at page 371.

¹⁶ See *TRRO*, ¶ 233, at page 133.

¹⁷ *Id.*

