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**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Petition of Qwest)
Corporation to Initiate a Mass-Market)
Switching and Dedicated Transport Case)
Pursuant to the Triennial Review Order)** **Docket No. UT-033044**

**RESPONSE TESTIMONY OF
MEGAN DOBERNECK AND MICHAEL ZULEVIC**

**FILED ON BEHALF OF
COVAD COMMUNICATIONS COMPANY**

February 2, 2004

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I. QUALIFICATIONS

Q. ARE YOU THE SAME MEGAN DOBERNECK AND MICHAEL ZULEVIC THAT FILED DIRECT JOINT TESTIMONY ON BEHALF OF COVAD ON DECEMBER 22, 2003?

A. Yes, we are.

Q. WHAT IS THE PURPOSE OF YOUR RESPONSE TESTIMONY?

A. The purpose of our response testimony is to highlight the fact that Qwest’s direct case on the mass market switching issue necessitates that the Washington Utilities and Transportation Commission (“Commission”) take data issues into account when deciding whether CLECs are impaired without access to unbundled switching (“UBS”) when serving the mass market.

Q. PLEASE EXPLAIN WHAT YOU MEAN.

A. In our Direct Testimony, we testified that the Commission must address data issues in this proceeding. As we explained in our Direct Testimony, data issues must be taken into account when considering whether to eliminate UBS because economic and consumer demand issues necessitate the existence of line split/loop split OSS, processes and products such that CLECs can efficiently, economically and actually provide data services (in tandem with voice services) to mass market customers. Now, there is a third reason data issues must be taken into account when considering whether to eliminate UBS, and that reason has been placed squarely before the Commission by Qwest.

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Q. HOW HAS QWEST PLACED DATA SERVICES AT ISSUE IN THE MASS MARKET SWITCHING CASE?

A. In its direct case, Qwest identified three MSAs (Portland/Vancouver, Seattle, and Tacoma) in which it claimed that the “self provisioning trigger” identified by the Federal Communications Commission (“FCC”) in its Triennial Review Order (“TRO”) were satisfied. For those three MSAs, Qwest requested that the Commission conclude that CLECs are not impaired without access to UBS.¹ Qwest also argued in its testimony that CLECs should not have access to UBS in the Bellingham, Bremerton and Olympia MSAs.² While Qwest acknowledged that neither the self provisioning trigger nor the wholesale triggers were met for these three MSAs, it nonetheless argued that UBS should be eliminated as a result of the Qwest “potential deployment” analysis. Qwest claimed that evidence of some CLEC switch deployment, in tandem with a business case based on the operations of an efficient CLEC (the “CPRO”), supposedly demonstrated that CLECs are not impaired without access to UBS in the Bellingham, Bremerton and Olympia MSAs. A critical assumption that Qwest made in support of its potential deployment claim related to the revenues the hypothetically efficient CLEC would generate *from data services* using its own switch and unbundled loops.

¹ Direct Testimony of Mark S. Reynolds, dated December 22, 2003, pp. i, and 20-21 (“Reynolds Direct”).

² Reynolds Direct, p. 60; Direct Testimony of Harry M Shooshan, III, dated December 22, 2003, pp. 60 and 65-68 (“Shooshan Direct”); and Direct Testimony of Peter Copeland, dated December 22, 2003, pp. 10-13.

1 **Q. PLEASE ELABORATE ON HOW QWEST UTILIZED REVENUE DERIVED FROM**
2 **DATA SERVICES IN ITS POTENTIAL DEPLOYMENT BUSINESS CASE.**
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4 A. That's easy. Qwest witness Peter Copeland first describes the Qwest business case model
5 – the CPRO – and unequivocally states that the CPRO “mimics ... [a] real-life business plan
6 for an efficient CLEC * * * [and uses] conservative and internally consistent assumptions
7 to determine whether entry in particular markets presents attractive financial opportunities
8 to entrants. In this way, CPRO attempts to simulate the decisions of a financially rational
9 and reasonably efficient CLEC.”³ Mr. Copeland further made clear his belief that all of the
10 assumptions contained in the CPRO were chosen by Qwest specifically for the purpose of
11 ensuring that the CPRO was both credible and consistent with the TRO.⁴ Finally, Mr.
12 Copeland stated his position that the CPRO included all “appropriate” revenues when
13 determining whether a reasonably efficient CLEC could economically enter the mass market
14 using its own switch.⁵ Taking Qwest at its word, therefore, the inclusion of revenue derived
15 from data services mimics what a CLEC would actually do, which renders such assumption
16 conservative, credible and consistent with the TRO.
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19 **Q. DO YOU DISAGREE WITH THE INCLUSION OF REVENUES DERIVED FROM**
20 **DATA SERVICES?**

21 A. Not at all. In fact, as we pointed out in our Direct Testimony, it is likely that CLECs will
22 only be able to provide service successfully in Washington if they provide both voice and
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25 ³ Direct Testimony of Peter Copeland, dated December 22, 2003, pp. 10-11 (“Copeland Direct”).

26 ⁴ Copeland Direct, p. 13.

⁵ *Id.*, p. 17.

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data to their customers. The point is, however, that if Qwest is allowed to rely on revenues derived from data services as part of its potential deployment case, then a CLEC must be able to provide such services in a timely, non-discriminatory, operationally efficient and economic manner. And that is the purpose of our Direct Testimony – to identify the problems that exist currently with Qwest’s voice and data loop OSS, processes and procedures that preclude a CLEC from efficiently and economically providing data services to mass market customers using a UNE-L delivery mechanism. Accordingly, Qwest should only be allowed to rely on data revenue in its potential deployment case to the extent that its current processes and OSS permit a CLEC to actually do so. Conversely, Qwest should not be allowed to include revenue from data services unless and until it corrects the problems that we identified and discussed in detail in our Direct Testimony.

Q. DOES THIS CONCLUDE YOUR RESPONSE TESTIMONY?

A. This concludes our Response Testimony, however, we anticipate filing all reply testimony permitted by the Commission, and being presented for cross examination at the hearing on the merits.