Exhibit ___-T (TJG-3T)

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition for Arbitration of an Interconnection Agreement between CHARTER FIBERLINK WA-CCVII, LLC and QWEST CORPORATION Pursuant to 47 U.S.C. Section 252.	DOCKET NO. UT-083041

REBUTTAL TESTIMONY

OF

TIMOTHY J GATES

ON BEHALF OF

CHARTER FIBERLINK WA-CCVII, LLC

November 17, 2008

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I. INTRODUCTION AND PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Timothy J Gates. My business address is QSI Consulting, 10451 Gooseberry Court, Trinity, Florida 34655.

Q. ARE YOU THE SAME TIMOTHY GATES WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING ON OCTOBER 8, 2008?

A. Yes.

Q. ON WHOSE BEHALF WAS THIS REBUTTAL TESTIMONY PREPARED?

A. This testimony was prepared on behalf of Charter Fiberlink WA-CCVII, LLC ("Charter").

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my testimony is to respond to the direct testimony of Qwest Corporation ("Qwest"). Specifically, I will respond to the direct testimony of Mr. William R. Easton[1] on Issues 10, 11, 13, 14, 15, 16 and 18; and the direct testimony of Philip Linse[2] on Issues 13 and 16.

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[1] Direct Testimony of William Easton on behalf of Qwest, WUTC Docket No. UT-083041, October 8, 2008 ("Easton Direct").
[2] Direct Testimony of Philip Linse on behalf of Qwest, WUTC Docket No. UT-083041, October 8, 2008 ("Linse Direct").

II. ISSUE BY ISSUE ANALYSIS

Issue 10: WHAT STANDARD SHOULD BE USED TO EXCUSE QWEST FROM THE OBLIGATION TO ALLOW CHARTER TO INTERCONNECT AT CERTAIN POINTS ON THE QWEST NETWORK?

Q. MR. EASTON DISCUSSES QWEST'S "RIGHTS" RELATED TO DENYING INTERCONNECTION TO REQUESTING CARRIERS. DOES HIS TESTIMONY SQUARE WITH THE GOVERNING INTERCONNECTION RULES?

A. No. Mr. Easton testifies as follows:

> Qwest has the right to deny interconnection at particular points if it is not technically feasible. Similarly, Qwest has the right to reject requests for connections between Qwest tandem switches where such connections would risk switch exhaust.[3]

Mr. Easton does not identify any state or federal rules, or statutes, that support his claims, and as I discussed in my direct testimony, his claims are incorrect.

Q. PLEASE ELABORATE.

A. In my direct testimony, I explained that it is the requesting carrier who has the right to interconnect with Qwest at any technically feasible point on Qwest's network. Further, Qwest cannot dictate where that interconnection takes place, or how many interconnection points a requesting carrier must establish within a LATA. I also explained that the FCC's rules are very clear about when Qwest is

[3] Easton Direct, p. 5, lines 16-19.

relieved of its obligation to provide interconnection to a requesting carrier – the FCC has made clear that Qwest is relieved of the obligation **only if** Qwest first proves to a state commission that interconnection at a particular point is **not** technically feasible (FCC Rule 51.305(e)).

Q. ARE YOU SUGGESTING THAT QWEST HAS NO RIGHTS TO REJECT INTERCONNECTION?

A. No, but such rights are strictly limited and impose a heavy burden of proof on Qwest. As I have just explained, Qwest does not have to interconnect in a manner that is technically infeasible. But it is important to recognize that FCC regulations establish a presumption of technical feasibility, and require the incumbent LEC (in this case Qwest) to prove that any particular interconnection arrangement which the CLEC requests is **not** technically feasible. For example, 47 C.F.R. 51.301(c) and (d) establish that any previous successful interconnection arrangement constitutes "substantial evidence" of technical feasibility. That is why I have testified that Qwest has the obligation to provide interconnection at any technically feasible point, and is relieved of that obligation only when it proves to the state commission that a particular request is technically infeasible. Therefore, Mr. Easton's statements that Qwest has the right to "deny" and "reject" requests for interconnection have no basis in the applicable rules. The only "right" Qwest has in this regard is the right to seek relief of its obligation to provide the requested interconnection by proving to the state commission that the requested interconnection is technically infeasible (as that term is defined in the rules).

Q. DO YOU DISAGREE WITH MR. EASTON'S TESTIMONY FOR OTHER REASONS?

A. Yes. I disagree with his statement that the mere fact that an interconnection request "would risk switch exhaust" would render that request technically infeasible. The FCC rules (FCC Rule 51.5) discussing technical feasibility and infeasibility states:

> A determination of technical feasibility does not include consideration of economic, accounting, billing, space or site concerns, except that space and site concerns may be considered in circumstances where there is no possibility of expanding the space available. ***The fact that an incumbent LEC must modify its facilities or equipment to respond to such request does not determine whether satisfying such request is technically feasible.*** (emphasis added)

Qwest's claim that a request would risk switch exhaust is not sufficient to render an interconnection request technically infeasible, particularly because Qwest may be able to modify its facilities or equipment to relieve the capacity restriction leading to the potential exhaust. That being said, Charter has agreed to language recognizing an "imminent risk of switch exhaust" as grounds for relieving Qwest of its obligation for providing interconnection at tandems so long as Qwest proves as much to the state commission. Qwest objects to including the word "imminent," though based on the FCC's rules related to technical infeasibility, inclusion of this word is perfectly reasonable and may actually be a concession by Charter to Qwest that "lowers the bar" on what Qwest must prove to the state commission to be relieved of its obligation to provide requested interconnection at a particular point.

Q. MR. EASTON STATES THAT CHARTER MAY DISPUTE QWEST'S CLAIMS OF TECHNICAL INFEASIBILITY OR SWITCH EXHAUST. IS THIS ACCEPTABLE TO CHARTER?

A. No. Mr. Easton testifies:

> Admittedly, Charter may dispute Qwest's claims of technical infeasibility or switch exhaust. However, the proper order of events is for Charter to request an interconnection point or switch connection, for Qwest to determine whether to accept or reject the request, and for any dispute to be negotiated and/or submitted to the Commission for resolution pursuant to the dispute resolution provisions of the ICA.

Again, Mr. Easton does not point to any state or federal rules or orders that support his claims, and that is because there are none. Indeed, when asked in discovery to "identify the FCC or Washington rule or order or other authority" Mr. Easton relied upon for his claim regarding the "proper order of events," Mr. Easton responded (in part): "Mr. Easton's statement is not based on an FCC or Washington rule. Instead it is based upon what is the most logical order of events."[4] Mr. Easton's view of the "most logical order of events" simply does not square with the FCC's rule stating that Qwest is relieved of its obligation to provide a requesting interconnection "only if it proves to the state public utility commission that interconnection at that point is technically infeasible." (FCC Rule 51.305(e)). There is nothing in this rule that allows Qwest to reject the requested interconnection solely in its own discretion. Nor does the rule require Charter to dispute Qwest's claims of technical infeasibility. Instead, the FCC's rule properly places the burden on *Qwest* to prove to a state commission that interconnection at a particular point is technically infeasible if it is to be relieved of its obligation.

Q. WOULD CHARTER'S PROPOSAL UNDERMINE QWEST'S NEED TO MONITOR, ENGINEER AND MANAGE ITS NETWORK AS MR. EASTON SUGGESTS?[5]

A. No. Mr. Easton states that Charter's proposal would put the Commission in the position of micromanaging Qwest's network and that Qwest is in the best position to make the first determination of whether an interconnection request is technically feasible.[6] Mr. Easton's claims are exaggerated. Nothing in Charter's proposal would put the Commission in the role of micromanaging Qwest's network or keeping Qwest from making the first determination of technical infeasibility. Charter's proposal, which simply reflects the FCC's rules on the on this question, is straightforward: if Qwest determines that interconnection at a

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[4] Qwest response to Charter information request 01-005. Respondent: Bill Easton.
[5] Easton Direct, p. 5, lines 26-28.

particular point is technically infeasible, then it must prove that to the state commission. This has nothing to do with the commission monitoring, engineering or managing Qwest's network. While the Commission will ultimately determine whether Qwest's claims of technical infeasibility are warranted, it is Qwest who makes that first determination of whether interconnection at a particular point is technically infeasible (and it must then prove that to the state commission).

Q. DOES CHARTER'S PROPOSAL CREATE A GREATER RISK OF SWITCH EXHAUST, AS MR. EASTON SEEMS TO SUGGEST?[7]

A. No, and Charter does not take lightly the potential for switch exhaust problems. If Qwest believed that a potential exhaust problem could arise in the near future, it would be in both parties' interests to avoid that potential problem. The only question is whether Qwest should have the right to resolve the problem unilaterally (as Qwest suggests), or whether it should be required to follow FCC rules by demonstrating to this Commission that the imminent exhaust problem would create interconnection arrangements that were not technically feasible (as Charter proposes).

Q. MR. EASTON STATES THAT CHARTER'S LAST SENTENCE IN SECTION 7.1.1 REGARDING DISPUTE RESOLUTION IS UNNECESSARY BECAUSE SECTION 5.18.1 OF THE ICA ALREADY

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[6] *Id.* at 5-6.

MAKES THIS CLEAR.[8] WHY IS THIS LANGUAGE IMPORTANT GIVEN SECTION 5.18.1?

A. Charter's proposed last sentence to Section 7.1.1 is important because of Qwest's claims that it is Charter's burden to raise disputes regarding Qwest's rejection of an interconnection request. Section 5.18.1 does not place the burden on either party to raise disputes and states: "***Either Party*** may give written notice to the other Party of any dispute not resolved in the normal course of business." By contrast, Mr. Easton states: "...***Charter*** may dispute Qwest's claims of technical infeasibility or switch exhaust."[9] Simply put, Qwest is attempting to place burdens on Charter that have no basis, and the contract should be clear on this point.

Q. WHAT IS YOUR RECOMMENDATION ON ISSUE 10?

A. I recommend that the Commission adopt Charter's proposed Section 7.1.1 of Section 7 (Interconnection).

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[7] *Id.* at 5, lines 17-19.
[8] *Id.* at 6, lines 21-23.
[9] *Id.* at 5, lines 19-20.

Issue 11: SHOULD THE AGREEMENT LIMIT THE METHODS BY WHICH CHARTER CAN ESTABLISH INTERCONNECTION WITH QWEST WHEN USING LEASED INTERCONNECTION FACILITIES?

Q. MR. EASTON CLAIMS THAT CHARTER'S PROPOSAL IS LACKING THE QUALIFICATION THAT AN INTERCONNECTION POINT BE TECHNICALLY FEASIBLE.[10] IS HE CORRECT?

A. No. Mr. Easton testifies as follows:

> Charter does not have an unconditional right to establish a single point of interconnection in each LATA in which it has end user customers. The Act and FCC rules interpreting the Act qualify a CLEC's request for a single interconnection point by requiring that the interconnection point be technically feasible. Charter's first change to Section 7.1.2 does not contain this important limitation.[11]

Despite Mr. Easton's claims, Section 7.1.2 includes the very qualification he claims is lacking. As I explained at page 28 of my direct testimony, the parties have already agreed to language in Section 7.1.2 which states: "The Parties shall establish, at least one (1) of the following Interconnection agreements, ***at any Technically Feasible point***..." (emphasis added), and that "Technically Feasible" is a defined term in Section 7.1.1 of the interconnection agreement. Mr. Easton's suggestion that Charter is attempting to circumvent the qualification of technical feasibility is not credible.

Q. DO YOU DISAGREE WITH MR. EASTON'S TESTIMONY QUOTED

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[10] *Id.* at 9.
[11] *Id.* at lines 3-8.

ABOVE FOR ANY OTHER REASON?

A. Yes. Once again, Mr. Easton's direct testimony focuses on limitations on the CLEC's right to establish interconnection points without acknowledging that the only limitation on this right is if Qwest proves to the state commission that a requesting point of interconnection is technically infeasible. Though Mr. Easton refers to the "Act and FCC rules," he does not provide specific cites to support his testimony, and as I have explained above and in my direct testimony (with specific cites to the Act and FCC rules), the Act and FCC rules support Charter's proposed language. A casual reading of Mr. Easton's testimony, absent the context I am providing, suggests that a CLEC has some type of burden to prove that a requesting interconnection point is technically feasible. This is not the case; rather, the presumption is that a particular interconnection point is technically feasible, and can be rebutted only by Qwest proving to a state commission that it is technically infeasible.

Q. MR. EASTON STATES THAT CHARTER'S PROPOSED TERM "INTERCONNECTION FACILITY" IS AN ATTEMPT BY CHARTER TO AVOID THE LIMITATIONS THE FCC HAS IMPOSED ON THE USE OF ENTRANCE FACILITIES.[12] IS THIS CORRECT?

A. No. Mr. Easton states that "under the FCC's Triennial Review Remand Order, other CLECs and third parties are not entitled to obtain entrance facilities as unbundled network elements ("UNEs") and thus, are not entitled to use entrance facilities they have obtained from Qwest to provide transport for Charter." Mr. Easton cites to paragraphs 136-141 of the Triennial Review Remand Order ("TRRO") as support for his testimony.[13] There are a number of problems with Mr. Easton's testimony on this issue.

Q. PLEASE ELABORATE ON THE FLAWS IN MR. EASTON'S REASONING.

A. Mr. Easton's testimony on this point is a red herring. This issue is **not** about obtaining entrance facilities as UNEs, as Mr. Easton claims. Charter has not proposed any language that would require Qwest to make available entrance facilities as UNEs, and Mr. Easton does not identify any language that would have that effect. Rather, the language that Charter proposed in Section 7.1.2. (at issue here) relates solely to the question of what methods of interconnection are available to Charter, and what facilities may be used for such interconnection. This fact is evident from a brief review of Charter's proposed language, which modifies Qwest's language concerning the "methods of interconnection" available to Charter. The paragraphs to which Mr. Easton cites from the TRRO find that requesting carriers are not impaired without unbundled access to entrance facilities as UNEs. That statement, in and of itself, is accurate, but irrelevant and

[12] *Id.* at lines 12-13.
[13] *Id.* at lines 12-19 and footnote 1.

inapplicable to this question. It is not relevant because the FCC also stated in the TRRO, at paragraph 140, that "our finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain interconnection facilities pursuant to section 251(c)(2) for the transmission and routing of telephone exchange service and exchange access service." In other words, the FCC continues to uphold the use of **interconnection** facilities to connect the parties' switches pursuant to Section 251(c)(2), even though they are no longer available as UNEs under Section 251(c)(3). Hence, Mr. Easton seems to confuse the question of entrance facilities that would be used as UNEs, with the question of entrance facilities that would be used as interconnection facilities, and that confusion leads him to the wrong conclusion.

Q. IF MR. EASTON'S TESTIMONY CONFUSES THE ISSUE, WHAT THEN IS THE ACTUAL DISPUTE CONCERNING INTERCONNECTION (OR "ENTRANCE") FACILITIES?

A. As noted above, the interconnection (or "entrance") facilities at issue here will be used for the purpose of interconnecting Charter's network with Qwest's network. The dispute centers around the question of whether such facilities must always be provided by Qwest, or whether such facilities may be provided by Charter, or third party CLECs, in some instances. This dispute is highlighted by Mr. Easton's statement that under Charter's proposal, "Charter would inappropriately be allowed to use entrance facilities that a third party has purchased from Qwest."[14] That is the heart of the dispute, whether Charter may use entrance facilities obtained by third parties to interconnect with Qwest. On this point, I would note that the TRRO language to which Mr. Easton cites specifically discusses obtaining entrance facilities from third party providers.[15] So, although the FCC endorses this approach, the use of a third party's facilities would be barred by Qwest's language (i.e., Qwest language only refers to "Qwest-provided facility" and "Qwest provided Entrance Facility"). While Mr. Easton focuses on Charter using entrance facilities that a third party has obtained from Qwest, this is not what Charter's language says. In fact, Charter's language for "Interconnection Facility" does not discuss ownership of the facility at all, but instead simply notes that facilities can be provided by the CLEC (Charter), a third party, or Qwest. In contrast, it is Qwest's proposed definition of "LIS Entrance Facility" that is defined in terms of Qwest's sole ownership and, as discussed above, that definition is inappropriately restrictive.

Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 11?

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[14] *Id.* at 17-19.

[15] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket 01-338, FCC 04-290, Order on Remand, February 4, 2005 (Triennial Review Remand Order or "TRRO"), paragraph 139 ("The record in this proceeding also demonstrates that competitive LECs are increasingly relying on competitively provided entrance facilities. BellSouth notes, for example, that between October 2003 and September 2004, 10 percent to 20 percent of the entrance facilities it had provided to competitive LECs were replaced by facilities obtained from other sources. Verizon states that between early 2003 and mid-2004, it migrated more than 32,000 entrance facility circuits to non-Verizon facilities." (footnotes omitted)

A. I recommend that the Commission adopt Charter's proposed language for Sections 7.1.2 and 7.1.2.4.

Issue 13: IS CHARTER REQUIRED TO COMPENSATE QWEST FOR SO-CALLED "DIRECT TRUNK TRANSPORT" CIRCUITS WHICH CARRY TRAFFIC FROM THE PARTIES' POI TO QWEST'S TANDEM SWITCH OR END OFFICE SWITCHES, EVEN WHERE CHARTER HAS ALREADY COMPENSATED QWEST UNDER THE RECIPROCAL COMPENSATION PROVISIONS OF THE AGREEMENT (VIA MUTUAL BILL AND KEEP ARRANGEMENTS)?

Q. WHAT IS QWEST'S PRIMARY DISAGREEMENT WITH CHARTER'S PROPOSAL FOR ISSUE 13?

A. Qwest states, through Mr. Easton, that it can agree to bill and keep for usage-based charges, but that it cannot agree to bill and keep charges for direct trunked transport and associated multiplexing.[16] Qwest states that the FCC's definition of bill and keep references termination but not transport and that the FCC's First Report and Order does not preclude flat rated charges for transport. I believe that Qwest's position on this issue is too narrowly construed.

Q. PLEASE ELABORATE.

A. Qwest focuses on the FCC's discussion of bill and keep in FCC Rule 51.713 which references termination, but not transport, and the First Report and Order's statement that nothing precludes a flat rated charge for transport. But those statements do not prohibit the bill and keep proposal that Charter is advocating here. In addition, I am not aware of any rule that prohibits a state commission from adopting bill and keep for transport and termination as Charter proposes.

[16] Easton Direct, pp. 16-17.

Though the FCC rules and order referenced by Qwest are silent on bill and keep for transport, notably, they do not prohibit bill and keep for transport either. Accordingly, the Commission should adopt Charter's bill and keep proposal because it is the most efficient reciprocal compensation arrangement proposed by either party, and because Qwest's proposal does not meet the requirements of a just and reasonable reciprocal compensation arrangement pursuant to the Act.

Q. IS THE FCC RULE THAT QWEST RELIES UPON, RULE 51.713, THE ONLY FCC RULE THAT ADDRESSES BILL AND KEEP ARRANGEMENTS?

A. No, it is not. In fact, FCC Rule 51.705 establishes specific standards regarding incumbent LECs' rates for transport and termination. In particular, the rule provides a basis for state commissions to adopt several different rate schemes, and specifically includes bill and keep arrangements. Notably, the rule indicates that bill and keep arrangements are appropriate for both transport **and** termination:

> 51.705 Incumbent LECs' rates for transport and termination.
>
> (a) An incumbent LEC's rates ***for transport and termination*** of telecommunications traffic shall be established, at the election of the state commission, on the basis of: …
>
> (3) A bill-and-keep arrangement, as provided in § 51.713.[17]

Notably, this rule (51.705) refers to both transport ***and*** termination in the context

[17] 47 C.F.R. § 51.705(a)(3) (emphasis added).

of bill-and-keep arrangements which state commissions may elect to impose. Although the rule refers to Rule 51.713 (which Qwest relies upon), as I explained above, the plain language of Rule 51.713 does not prohibit a bill-and-keep arrangement that covers both termination and transport. Thus, Rule 51.705 demonstrates that state commissions, like this one, are empowered to adopt a bill and keep arrangement that covers both transport and termination.

Q. WHY IS BILL AND KEEP FOR BOTH TRANSPORT AND TERMINATION OF TRAFFIC THE MOST EFFICIENT RECIPROCAL COMPENSATION ARRANGEMENT BETWEEN CHARTER AND QWEST?

A. To answer that question it is helpful to review one important principle that the parties do not dispute. The parties have already agreed upon the fact that the traffic between their respective networks has been roughly balanced in the past, and will be roughly balanced in the future. Agreed-upon language in the Agreement (e.g., section 7.3.4.1.2) reflects that fact. Because the parties recognize that the traffic will be roughly balanced, they understand that their costs of terminating the other party's traffic will also be roughly balanced. And, further, the parties recognize that any reciprocal charges assessed against one another for terminating the other party's traffic would likely be roughly equivalent because each party would use the same rate for such terminating traffic. Therefore, the parties agree that traffic volumes, costs, and rates, associated with the termination of traffic will be roughly equivalent. If the traffic volume, rates, and charges, are roughly equivalent then it is likely that each party's reciprocal compensation invoices will be equivalent. In other words, the parties would likely send each other invoices for the same dollar amounts (which would effectively cancel each other out). In recognition of these facts, the parties have agreed to a bill and keep arrangement for the termination of traffic.

Q. WHY DID THE PARTIES AGREE UPON BILL AND KEEP COMPENSATION ARRANGEMENT FOR TERMINATION OF TRAFFIC?

A. Because that arrangement is both equitable, and efficient. It is efficient because it does not require the parties to send each other invoices that would, effectively, be offsetting. That approach is equitable because it ensures that both parties' traffic is terminated by the other party, and that the party terminating that traffic is compensated by an "in-kind" compensation arrangement (i.e. the other party terminating its traffic). In this way, the parties have agreed that bill and keep is the proper form of compensation for their mutual actions taken to **terminate** each other's traffic.

Q. IF BILL AND KEEP IS MOST EFFICIENT FOR <u>TERMINATION</u> OF TRAFFIC, WOULDN'T THE SAME APPROACH BE EFFICIENT FOR THE <u>TRANSPORT</u> OF TRAFFIC?

A. Yes. All of the principles surrounding termination of traffic that I just described (roughly equivalent traffic volume, costs, and rates) also apply to the transport of traffic. Remember, transport and termination are two functions that occur for every call that is delivered to either party's network. Transport is the function of delivering (and switching) traffic from the parties' point of interconnection to the terminating carrier's end office switch. Termination is the switching and transmission of traffic from the end office to the called party's premise. Attached as Exhibit TJG-4 is a simple diagram illustrates these two separate, but interrelated, functions.

As I just noted, the parties agree that the traffic between the parties has been roughly balanced. Moreover, if the parties were to charge each other for transport and termination, the rates assessed would be symmetrical. Accordingly, invoices between the parties for transport and termination (based on the same amount of traffic and same rates) would essentially cancel each other out. By way of example, if Qwest invoiced Charter $1,000 and Charter invoiced Qwest $1,000 for a particular month, the invoices to each company would be a wash. However, the parties would incur administrative and transactions costs related to invoicing the other party. A more efficient method would be to implement bill and keep, where the ultimate outcome is largely the same (the charges to each party cancel each other out), but the parties would avoid the administrative and transaction costs associating with invoicing.

Q. DO YOU BELIEVE THAT CHARTER INCURS TRANSPORT COSTS THAT ARE ROUGHLY EQUIVALENT TO QWEST'S TRANSPORT COSTS?

A. Yes. Although we do not have a specific cost study from Qwest as a basis to compare Charter's transport costs, a brief review of Charter's network arrangements in Washington reveals that it incurs substantial transport costs in sending traffic to, and receiving traffic from, Qwest's network. The attached diagram, Exhibit TJG-5C, is a **confidential** network diagram that shows the substantial transport links that Charter has deployed between its current POI with Qwest in Yakima, Washington, back to the Charter network facilities in Pasco and Kennewick (where Charter provides competitive voice services to residential and small business subscribers in competition with Qwest). As this diagram reveals, Charter has deployed significant transport facilities between these locations, and other relevant locations on the Charter network in Washington. These transport facilities have the ability to carry substantial volumes of traffic, and are deployed over many miles. In addition, this diagram also reaffirms that Charter's switch in Washington serves a comparable (if not greater) geographic area to the Qwest tandem switch serving the area where these two companies both provide service to end user customers.

Q. YOU SAID ABOVE THAT QWEST'S PROPOSAL DOES NOT MEET THE REQUIREMENTS OF A JUST AND REASONABLE RECIPROCAL

COMPENSATION ARRANGEMENT UNDER THE ACT. PLEASE EXPLAIN.

A. I explained in my direct testimony that Section 252(d)(2) requires that for terms and conditions related to reciprocal compensation to be just and reasonable, they must "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier" and that the Act specifically allows for mutual recovery to be implemented through the offsetting of reciprocal obligations such as bill and keep arrangements.[18] However, as I explained at pages 39-40 of my direct testimony, Qwest's proposal does not clearly provide for the mutual and reciprocal recovery of both parties' transport costs. Although there is language in Section 7.3.2.1 of Qwest's proposed language that suggests either party may "purchase" transport from the other party, the remaining language in that section is tailored for Qwest to allow it to charge Charter for such transport, but not necessarily for Charter to charge Qwest for the same functionality. Charter also incurs transport costs on its side of the network for Qwest-originated traffic and must be allowed to recover those costs. If the Commission does not adopt Charter's proposal to allow the mutual recovery to occur through a bill and keep arrangement, it should at least clarify that Charter is entitled to recover its transport costs by allowing Charter to assess on Qwest the

[18] Section 252(d)(2)(B)(1).

same transport charges (at the same rates) that Qwest proposes to assess on Charter. I would note that in response to discovery requests from Charter, Qwest has indicated that it **does** purchase direct trunked transport from other CLECs in Washington. Charter, therefore, simply seeks the same affirmation of its right to avail itself of the same compensation terms and principles that Qwest currently provides to other competitive LECs in Washington.

Q. DOES CHARTER'S PROPOSED LANGUAGE FOR SECTION 7.2.2.1.2.2 CONFLICT WITH SECTION 7.2.2.1.3 AS MR. LINSE CLAIMS?[19]

A. No. Mr. Linse states that because Section 7.2.2.1.2.2 is "subject to Section 7.2.2.1.3" the requirement in Section 7.2.2.1.2.2 that the originating party can, at its option, direct the terminating party to establish trunks conflicts with the requirement in Section 7.2.2.1.3 (which states that the originating party will establish trunking). However, the "subject to" language in Section 7.2.2.1.2.2 refers to the agreed-upon DS1 threshold in Section 7.2.2.1.3 (i.e., where direct trunking obligations arise), not which party establishes the trunks.

Q. WHAT IS YOUR RESPONSE TO QWEST'S CLAIM THAT CHARTER'S PROPOSED SECTION 7.2.2.1.2.2 IS INCONSISTENT WITH CHARTER'S BILL AND KEEP PROPOSAL?[20]

A. I disagree. Qwest is not reading the contract language in context and in its

[19] Linse Direct, p. 10.

entirety. Charter's proposed Section 7.2.2.1.2.2 simply recognizes that Section 251(b)(5) says that transporting and terminating traffic causes costs and the party incurring those costs should be compensated for them. Charter's proposal, in its entirety, recognizes that this compensation can occur under one of two scenarios: (a) the parties invoicing and paying each other or (b) in–kind compensation through bill and keep. It is Charter's position that since the traffic will be roughly balanced between the parties, and therefore invoices between the parties will likely be a wash, that a bill and keep compensation arrangement is the most efficient arrangement.

Q. MR. LINSE SAYS THAT CHARTER'S PROPOSED SECTION 7.2.2.1.2.2 "MAKES NO SENSE" AND IS UNCLEAR WHETHER IT "REFERS TO POIs WITH QWEST OR POIs WITH SOME OTHER UNIDENTIFIED PROVIDER."[21] WOULD YOU LIKE TO RESPOND?

A. Yes. It appears that Mr. Linse misunderstands Charter's proposed language for Section 7.2.2.1.2.2. To clarify, the POIs and networks referred to in the phrase **"to connect any POIs between the networks with CLEC's network"** are the Charter/Qwest POIs and the Charter and Qwest networks. Mr. Linse's reference to POIs with "some other unidentified provider" is a red herring.

Q. DOES CHANGING THE WORD "OF" TO "FOR" IN SECTION 7.3.2.1.1

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[20] Easton Direct, p. 15.

REQUIRE QWEST TO PROVIDE TRANSPORT OUTSIDE OF QWEST'S SERVICE TERRITORY, SUCH AS TO CALIFORNIA, AS MR. LINSE CLAIMS?[22]

A. No. First, changing the word "of" to "for" is a simple grammatical change – nothing more, nothing less. There was no intent to force Qwest to provide transport outside of its territory, and more importantly, there is no way that the language supports Mr. Linse's overbroad reading. Second, Mr. Linse's misunderstanding of this issue may be due to his apparent belief that the POI is at the Charter switch (see, e.g., Exhibits PL-5 and PL-6). This is not the case. Rather, the interconnection point established between Qwest and Charter will be on Qwest's network, as evidenced by the agreed-upon language in Section 7.1.1 which states: "Qwest will provide Interconnection at any Technically Feasible point *within its network*..." (emphasis added). Given that the interconnection point will be within Qwest's network, I am not sure why Mr. Linse thinks that Charter's POI with Qwest would or could be in California.

Q. WHAT IS YOUR RESPONSE TO QWEST'S CLAIM THAT CHARTER'S PROPOSAL FOR SECTION 7.2.2.1.4 IS AMBIGUOUS AND INTERNALLY INCONSISTENT?[23]

A. Mr. Easton takes issue with Charter's proposed phrase: "**where the parties do**

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[21] Linse Direct, p. 9, lines 20-25.
[22] *Id.* at 12.

not use the bill and keep arrangement set forth in Section 7.3" stating that Charter does not specify when that will be the case and claims that it is inconsistent with Charter's bill and keep proposals. However, as I explained at pages 42-43 of my direct testimony, Charter informed Qwest during negotiations that, as an alternative to Charter's primary recommendation of bill and keep for transport, Charter would be willing to use the same rates that Qwest proposes to assess upon Charter for direct trunked transport. The phrase shown above in Charter's proposed Section 7.2.2.1.4 accounts for situations in which the parties do not use bill and keep for transport, and in these instances, the parties would use the same rates Qwest proposes to assess upon Charter. Therefore, Charter's proposed 7.2.2.1.4 would apply when bill and keep does not apply (as in the case of Charter's alternative proposal for compensation for transport) and is consistent with Charter's overarching bill and keep proposal.

Q. WOULD CHARTER'S PROPOSAL FOR 7.2.2.1.4 RESULT IN ASYMMETRICAL RECIPROCAL COMPENSATION RATES IN VIOLATION OF FCC RULES?[24]

A. No. In my direct testimony at pages 42-43, I explained that Charter proposed to Qwest during negotiations that Charter would be willing to use the same rates Qwest proposes to assess on Charter (found in the current price list) when bill and

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[23] Easton Direct, pp. 15-16.
[24] *Id.* at 16.

keep does not apply. Accordingly, the rates would be symmetrical under Charter's proposed Section 7.2.2.1.4.

Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 13?

A. I recommend the Commission adopt Charter's proposed language for Sections 7.2.2.1.2.2, 7.2.2.1.4, 7.3.2.1, 7.3.2.1.3, 7.3.2.3, 7.3.2.1.2, 7.3.2.1.4, 7.3.2.2, and 7.3.2.2.1.

<u>Issue 14</u>: SHOULD QWEST BE ENTITLED TO IMPOSE NON-RECURRING TRUNK INSTALLATION AND REARRANGEMENT CHARGES UPON CHARTER EVEN WHERE THE PARTIES HAVE AGREED TO A BILL AND KEEP COMPENSATION SCHEME?

Q. WHAT IS QWEST'S OBJECTION TO CHARTER'S PROPOSAL FOR ISSUE 14?

A. Qwest objects to Charter's proposal for bill and keep for trunking charges. Mr. Easton states that "Qwest is willing to agree to bill and keep for usage-based charges, but not for the dedicated transport."[25] My response to Qwest's direct testimony on this issue will be discussed within the context of Issues 13 and 15 and will not be repeated here, other than to reiterate two points. First, as explained above under Issue 13, Qwest's reference to FCC Rule 51.713, which is Qwest's primary support for applying bill and keep only to termination but not transport, does not tell the entire story. Qwest ignores FCC Rule 51.705 which refers to a state commission establishing an ILEC's rates for transport *and* termination based on bill and keep. Second, if Qwest can charge Charter for transport on Qwest's side of the POI, it is only fair and equitable that Charter should be able to charge Qwest for transport on Charter's side of the POI at the same rate that Qwest charges. Not doing so (if the Commission adopts Qwest's language here) would be inequitable and a violation of Section 251(b)(5) of the

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[25] *Id.* at 20, lines 12-13.

Act, and implementing FCC rules.[26]

Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 14?

A. I recommend the Commission adopt Charter's proposed language for Sections 7.3.3.1 and 7.3.3.2.

[26] For example, FCC Rule 51.711 requires symmetrical rates for transport and termination except under specific circumstances.

<u>Issue 15</u>: SHOULD THE PARTIES' AGREED UPON BILL AND KEEP COMPENSATION ARRANGEMENT APPLY TO BOTH THE TRANSPORT AND TERMINATION OF SECTION 251(b)(5) TRAFFIC EXCHANGED BETWEEN THE PARTIES?

Q. WHY DOES QWEST OBJECT TO CHARTER'S PROPOSAL FOR ISSUE 15?

A. Mr. Easton raises two primary reasons why Qwest objects to Charter's proposal for Issue 15. First, Mr. Easton states that Charter's proposal, which would extend bill and keep to transport *and* termination, is not consistent with the FCC's rules and orders which extends bill and keep only to termination (but not transport).[27] Second, Mr. Easton states that the FCC's rules do not authorize state commissions to impose bill and keep for transport.[28] The first issue is addressed above under Issue 13 and the second issue is addressed below.

Q. PLEASE ADDRESS MR. EASTON'S SECOND ISSUE – THAT THE FCC'S RULES DO NOT AUTHORIZE STATE COMMISSIONS TO IMPOSE BILL AND KEEP FOR TRANSPORT.

A. This is really an extension of Mr. Easton's first argument that the definition of bill and keep under FCC Rule 51.713(a) includes termination but not transport. Mr. Easton states: "Neither the FCC's definition of bill-and-keep in Rule 51.713(a) nor the FCC's authorization for state commissions to impose bill in keep [sic] in

[27] Easton Direct, pp. 22-23, referencing the definition of bill and keep in FCC Rule 51.713(a) and the Local Competition Order, ¶ 1096.
[28] Easton Direct, pp. 23-24.

Rule 51.713(b) authorizes the Commission to impose bill and keep for transport, much less dedicated transmission facilities, as Charter is proposing."[29] The definitional issue of bill and keep under FCC Rule 51.713(a) is addressed above under Issue 13. Regarding Mr. Easton's discussion of what the FCC authorizes a state commission to impose concerning bill and keep under FCC Rule 51.713(b), Mr. Easton takes an overly narrow view of the FCC's rules. 47 CFR § 51.713(b) states:

> A state commission may impose bill-and-keep arrangements if the state commission determines that the amount of telecommunications traffic from one network to the other is roughly balanced with the amount of telecommunications traffic flowing in the opposite direction, and is expected to remain so, and no showing has been made pursuant to § 51.711(b).

Because FCC Rule 51.713(b) does not specifically reference termination, Mr. Easton's apparent interpretation is that this Commission is precluded from adopting Charter's proposal of bill and keep for both termination and transport. I disagree. But, as I have previously explained, during my testimony on Issue 13, FCC Rule 51.705 specifically authorizes state commissions to adopt rates for transport and termination, **including** bill and keep arrangements. Nothing in FCC Rule 51.713(b) prohibits this Commission from adopting bill and keep for transport and termination as Qwest would have the Commission believe. Instead, the fact that the rule references "arrangements" (plural) suggests that the FCC

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[29] *Id.* at 23, lines 19-23.

intended that state commissions have the authority to impose various forms of bill and keep arrangements on carriers. Therefore, implicitly, other options are available to a state commission regarding reciprocal compensation. And though Mr. Easton points to paragraph 1096 of the Local Competition Order which states that bill and keep does not "preclude" a positive charge for transport, what he does not say is that the FCC's rules and orders do not "require" a positive charge for transport either.

Q. IF FCC RULE 51.713 DOES NOT RULE OUT EITHER PARTY'S PROPOSAL, THEN WHY IS CHARTER'S PROPOSAL PREFERABLE TO QWEST'S?

A. As explained in my direct testimony, Section 252(d)(2) *requires* reciprocal compensation arrangements to "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier."[30] The Act and FCC Rule 51.705 state that this mutual recovery can be accomplished through bill and keep arrangements, as Charter proposes. Finally, this form of mutual recovery is consistent with the fact that the parties have already agreed that they expect the traffic volumes exchanged between their networks to be roughly balanced.

[30] See, Direct Testimony of Timothy J Gates, WUTC Docket UT-083041 ("Gates Direct"), p. 37.

In the alternative, I explained at page 42 of my direct testimony that if the Commission decides not to adopt Charter's proposal of bill and keep for both transport and termination, then it must permit Charter to assess direct trunk transport charges (the same charges that Qwest proposes to assess Charter) on Qwest.[31] While this would allow Charter to recover its costs related to transport and would adhere to the mutual recovery requirement of the Act, Charter prefers its primary proposal of bill and keep for both termination and transport because it is more efficient and less administratively burdensome for both parties. Qwest's proposal, on the other hand, provides for recovery of only *Qwest's* costs of transport, which is one-sided and a contravention of the Act's reciprocal compensation requirements. Charter incurs costs to transport traffic originated on Qwest's network (and Qwest does not contend otherwise in its direct testimony), and based on this fact, Qwest's proposal (which does not provide Charter an opportunity to recover these costs on Charter's side of the POI) is expressly prohibited.

Q. QWEST OFFERS A NEW PROPOSAL FOR ISSUE 15 AT PAGES 24-26 OF MR. EASTON'S DIRECT TESTIMONY. IS THIS NEW PROPOSAL ACCEPTABLE TO CHARTER?

A. No, I don't think it addresses Charter's fundamental concern that both Charter and

[31] See, e.g., 47 CFR § 51.705.

Qwest will incur transport costs, that both parties should be able to recover those transport costs, and that the most efficient way to do that is through a bill and keep arrangement which applies to both transport and termination.

Q. HOW DOES QWEST'S PROPOSAL ADDRESS THIS SPECIFIC ISSUE?

A. It doesn't address this issue. Qwest's proposal merely substitutes a reciprocal compensation arrangement that would, without question, apply to both transport and termination of Section 251(b)(5), and ISP-Bound traffic, on each party's side of the POI. If adopted, I don't know how Qwest would have any basis to continue to argue that it would be entitled to bill Charter for both reciprocal compensation (which includes a transport element), **and** direct trunked transport on Qwest's side of the POI. On the other hand, if Qwest is conceding that no direct trunked transport charges would apply, I suspect that Charter would be willing to exchange all such traffic at $.0007 (assuming that neither party were required to pay direct trunked transport to the other party).

Q. ARE THERE ANY OTHER CONCERNS WITH QWEST'S PROPOSAL?

A. My last concern is simply that the parties have already agreed that the traffic on their networks is roughly balanced. If Qwest's alternative language were adopted, I suspect it would mean that the parties would exchange reciprocal compensation invoices that would essentially cancel each other out. As I have already explained, that is an inefficient result.

Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 15?

A. I recommend the Commission adopt Charter's proposed language at Sections 7.3.4.1.1.2, 7.3.4.1.2, and 7.3.4.1.3.

Issue 16: SHOULD EITHER PARTY HAVE THE RIGHT TO UTILIZE INDIRECT INTERCONNECTION AS A MEANS OF EXCHANGING TRAFFIC WITH THE OTHER PARTY?

Q. QWEST STATES THAT CHARTER'S PROPOSAL COULD LEAD TO "PHANTOM TRAFFIC."[32] WOULD YOU LIKE TO RESPOND?

A. Yes. Mr. Linse says that Charter's language would provide Charter the ability to transit traffic through an end office switch, which may disguise the traffic as originating from the end office switch providing the transit. Not only is this pure speculation on Mr. Linse's part, it is also false. Section 7.3.8 requires each party to provide the other party the signaling information necessary to properly identify and bill traffic, and includes protections if the required signaling information is not provided.

Q. WHAT IS YOUR RESPONSE TO MR. LINSE'S CLAIM THAT CHARTER'S PROPOSAL WOULD ENCOURAGE REVENUE SHARING AGREEMENTS BETWEEN CHARTER AND THE TRANSIT PROVIDER SO THAT CHARTER WOULD BE COMPENSATED FOR EVERY MINUTE OF TRANSIT TRAFFIC FROM QWEST?[33]

A. Again, Mr. Linse engages in pure speculation. He does not provide any evidence that Charter would establish or has established such revenue sharing arrangements. Furthermore, what Mr. Linse fails to mention is that Charter's

[32] Linse Direct, pp. 13-14.
[33] *Id.* at 15.

proposed language for Section 7.1.2.7 states that once the total volume of traffic being exchanged exceeds a relatively low threshold of 240,000 minutes per month for three consecutive months, either party may request the establishment of direct interconnection. This means that Charter does not have an incentive to attract customers that generate terminating traffic from Qwest to Charter or to partner with multiple transit providers, because once the total traffic from these hypothetical transit providers reaches the established threshold, direct interconnection could be required and any revenue that is shared with transit providers would be eliminated. Charter's indirect interconnection proposal is designed to provide a cost-effective method for the exchange of relatively low levels of traffic between the parties, not to engage in regulatory arbitrage, and in fact, Charter's proposal eliminates the potential for regulatory arbitrage by providing for direct interconnection when the level of traffic between the parties may justify it.

Q. MR. LINSE STATES THAT HE IS NOT AWARE OF ANY INDUSTRY STANDARD THAT USES THE 240,000 MINUTE BENCHMARK IN CHARTER'S PROPOSAL THAT WOULD TRIGGER DIRECT CONNECTION.[34] PLEASE EXPLAIN THIS BENCHMARK.

A. I am surprised by this comment. It is relatively common for carriers to agree to some benchmark, which when met, results in joint planning for direct end office trunks. While it varies from region to region, it is not uncommon to use a DS1 level of traffic – which is what the 240,000 minutes refers to – for a trigger. References to either 200,000 or 240,000 minutes of use have been used for a number of years in the industry. Obviously the 240,000 minutes does not refer to the absolute capacity of a DS-1 but rather to a fill of approximately 60 percent of the DS-1. Let me provide just a couple examples. In 2001 Cox brought a Petition for Investigation of Southern New England Telephone Company's ("SNET") Transit costs and rates.[35] In that decision, the Department quoted SNET as follows: "According to the Telco, CTTS [Connecticut Transit Traffic Service] allows carriers to send up to one DS-1 worth of traffic per month (24 trunks carrying approximately 240,000 minutes) over these trunks to these third-party carriers." In a recent traffic termination agreement filed in Wisconsin between Rhinelander Telephone LLC ("Frontier") and Charter, the parties agreed to the following language regarding when to engage in direct interconnection: "For purposes of this Agreement, Crossover Volume means a total bi-directional volume of Local/EAS Traffic exceeding 240,000 minutes of use or one DS1 at 512 ccs [centum call seconds] per month for three (3) consecutive months."[36] Just as in this case, the concern was tandem exhaust. It may be that Mr. Linse does not understand the relationship between minutes of use and CCS, but I do

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[34] *Id.* at 16.
[35] 2003 Conn. PUC LEXIS 11, dated January 15, 2003, Docket No. 02-01-23, at page 5.
[36] See, Request to Approve a Voluntary Interconnection Agreement Pursuant to 47 U.S.C. § 252(e); filed July 9, 2008; Proposed ICA at page 5.

not see a significant disagreement between the parties on the trigger for a request for direct connection.

I am also surprised by the statement that Qwest cannot monitor traffic. If Qwest can monitor "CCS" it can monitor minute of use since they are one in the same. Traffic sampling is a common practice and can be used to determine when traffic, over a period of say three months, has reached a trigger amount.

Q. WHAT IS YOUR RESPONSE TO QWEST'S CLAIM THAT CHARTER'S PROPOSAL FOR ISSUE 16 DOES NOT ADDRESS SIGNIFICANT ISSUES REGARDING INDIRECT CONNECTION?[37]

A. Mr. Easton states that Charter's language does not address issues such as identification of the third party Charter intends to use and how the transit traffic will be identified/segregated for intercarrier compensation purposes. However, as mentioned above, the contract requires that the amount of traffic routed over an indirect interconnection will be relatively small – i.e., to be used in this circumstances when it is most cost effective – and requires the traffic to be properly identified for compensation purposes. And to Qwest's point that Charter's language does not identify the third party Charter intends to use, I disagree that identifying a specific company within the contract is needed or appropriate, as the agreement being arbitrated is between Charter and Qwest (and

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[37] Easton Direct, p. 28.

not a third party) and should set out the terms and conditions that are applicable between the two parties only – which Charter's language does.

Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 16?

A. I recommend the Commission adopt Charter's proposed language for Section 7.1.2.6 and 7.1.2.9.

Issue 18: SHOULD QWEST BE REQUIRED TO MAKE 911 FACILITIES AVAILABLE TO CHARTER AT COST-BASED RATES PURSUANT TO SECTION 251(C)?

Q. QWEST OFFERS A NEW LANGUAGE PROPOSAL FOR THIS ISSUE THAT WAS NOT PROVIDED PREVIOUSLY. HOW DOES QWEST'S NEW PROPOSAL COMPARE TO ITS OLD PROPOSAL AS WELL AS CHARTER'S PROPOSAL?

A. The last sentence of Qwest's original proposal was: "Otherwise, DS0 LIS facilities may be ordered for 911/E911 per section 7.2.2.9.4." The last sentence of Qwest's new proposal is: "911/E911 DS0 trunks may be provisioned on either muxed LIS T1 facilities or muxed private line T1 facilities at the CLEC's discretion." By comparison, the last sentence of Charter's proposal states: "Otherwise, **rates for 911/E911 facilities shall be the same as rates for LIS facilities.**"

Q. IS QWEST'S NEW PROPOSAL ACCEPTABLE TO CHARTER?

A. No. Qwest's new proposal is an improvement over its original proposal because it acknowledges that 911/E911 trunks may be provisioned on LIS facilities, but Charter's proposal is still superior. While Qwest's new proposal references LIS facilities (and by implication, suggests that LIS rates would apply), it does not expressly reference the rates that would apply. Charter's language is clear on this issue and expressly indicates that LIS rates (i.e., TELRIC-based rates) will apply for these facilities. The clarity provided by Charter's language is appropriate because, as explained at page 60 of my direct testimony, the FCC currently requires TELRIC pricing for 911/E911 interconnection.

Q. BUT MR. EASTON CLAIMS THAT QWEST'S LANGUAGE PROPERLY RECOGNIZES THE "OPTION" AVAILABLE TO CHARTER FOR PURCHASING 911/E911 FACILITIES AS EITHER LIS FACILITIES OR PRIVATE LINE FACILITIES.[38] WOULD YOU LIKE TO COMMENT?

A. Yes. As demonstrated by Charter's proposed language, there's no reason to include in the contract a reference to private line facilities because Charter does not want to avail itself of this so-called "option." Qwest's reference to options makes no sense: why would Charter purchase these facilities as private line facilities at higher rates when it can purchase them at lower LIS (interconnection) rates? While Qwest's new proposal states that this decision is left up to "<u>the CLEC's discretion</u>," Charter has already expressed its decision to purchase these facilities at LIS rates, and therefore, Qwest's proposed "option" language is unnecessary. Furthermore, while Qwest states that "unlike the Charter language, [Qwest's new language] does not require that LIS facility rates apply to all 911 facilities," what Mr. Easton fails to mention is that the requirement in Charter's language that LIS rates apply to 911 facilities is consistent with the FCC's

[38] *Id.* at 30.

conclusions.[39]

Q. WHAT IS YOUR RECOMMENDATION FOR ISSUE 18?

A. I recommend the Commission adopt Charter's proposed language for Section 10.3.7.1.1.

III. CONCLUSION

Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes, it does.

[39] See, *In the Matter of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers,* First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 (2005), ¶ 38, referenced in my direct testimony at page 60.