EXHIBIT AJG-2T

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of	**)**	
	)	**DOCKET NO. UT-033044**
QWEST CORPORATION	**)**	
	)	
To Initiate a Mass-Market Switching	**)**	
And Dedicated Transport Case	**)**	
Pursuant to the Triennial Review	**)**	
Order	**)**	

RESPONSE TESTIMONY OF

ANTHONY J. GIOVANNUCCI

ON BEHALF OF

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC., AT&T LOCAL SERVICES ON BEHALF OF TCG SEATTLE, AND TCG OREGON (COLLECTIVELY "AT&T")

REGARDING DEDICATED TRANSPORT

February 2, 2004

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I. INTRODUCTION OF WITNESS AND PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR FULL NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Anthony J. Giovannucci. My business address is 429 Ridge Road, Dayton, New Jersey.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am testifying on behalf of AT&T Communications of the Pacific Northwest, Inc., AT&T Local Services on behalf of TCG Seattle, and TCG Oregon (collectively "AT&T").

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to analyze and rebut Qwest's assertions that 29 routes meet the self-provisioning and wholesale triggers for dedicated transport.

In its *Triennial Review Order* ("*TRO*"),[1] the Federal Communications Commission ("FCC") determined that incumbent local exchange carriers ("ILECs") must continue to provide competitive local exchange carriers ("CLECs") with access to dedicated transport at the DS1, DS3, and dark fiber capacity levels ("dedicated transport"). The FCC conducted a comprehensive

1 *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers* (CC Docket No. 01-338); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* (CC Docket No. 96-98); *Deployment of Wireline Services Offering Advanced Telecommunications Capability* (CC Docket No. 98-147), Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003) (hereinafter *"TRO"*).

analysis that resulted in the determination that CLECs are impaired without access to dedicated transport at the national level. Recognizing that there may be individual transport routes where competitively provisioned transport *has been deployed* to such an extent that CLECs may be deemed not to be impaired, the FCC developed several triggers. The triggers are designed to give ILECs an opportunity to demonstrate to their respective state commissions that CLECs are not impaired without access to unbundled transport on *specific* dedicated transport routes for specific capacity levels. A unique characteristic of the triggers is that they focus exclusively on consideration of what **currently exists** on the specific transport routes at issue. Thus, a decision as to whether a trigger is satisfied may not be influenced by arguments that it may be possible for a carrier to provide transport facilities at some point in the future. Any such review of possible future activity is the exclusive province of a potential deployment analysis, which Qwest has chosen not to submit as part of its direct case.

In my testimony, I will show that Qwest, through its witness Ms. Rachel Torrence, has failed to demonstrate that any transport routes satisfy the self-provisioning and wholesale triggers. I also will show that Ms. Torrence has failed to follow the trigger analysis set forth in the *TRO*.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. My testimony is divided into five sections. Section I identifies the purpose of my testimony. Section II briefly summarizes the FCC's impairment analysis and how it relates to the unbundled transport services necessary for a facilities-based CLEC to effectively compete with the ILECs. In Section III, I will explain the self-provisioning triggers that the FCC devised for dedicated transport at the DS3 and dark fiber capacity levels, and will provide the proper framework for interpreting any Qwest claim that the triggers have been met. In Section IV, I show that Qwest's self-provisioning analysis is incomplete, non-specific and unusable for any decision making by the Commission. Section V explains the wholesale triggers for transport, and I will explain the additional requirements (which Qwest has failed to address in its testimony) needed to define a carrier as a wholesale provider. In Section VI, I critique Qwest's wholesale trigger analysis and show that, it too, is incomplete, non specific and unusable for any decision making by the Commission.

Q. WHAT DOCUMENTS DID YOU REVIEW TO PREPARE YOUR TESTIMONY?

A. In preparation for this testimony, I reviewed the materials relating to this proceeding, but with particular emphasis on *TRO* itself, the testimony submitted by Qwest and accompanying attachments, and the discovery requests and responses.

II. THE FCC CONCLUDED IN THE *TRO* THAT CLECS ARE IMPAIRED WITHOUT UNBUNDLED ACCESS TO DEDICATED TRANSPORT

Q. WHAT STANDARDS DID THE FCC APPLY TO DETERMINE IMPAIRMENT FOR UNBUNDLED NETWORK ELEMENTS?

A. The FCC based its impairment findings upon a determination that "[a] requesting carrier is impaired when lack of access to an incumbent LEC network element poses a barrier or barriers to entry, including operational and economic barriers, that are likely to make entry into a market uneconomic."[2] The FCC also found that "[a]ctual marketplace evidence is the most persuasive and useful evidence to determine whether impairment exists."

Q. WHAT DID THE FCC CONCLUDE SPECIFICALLY WITH REGARD TO DEDICATED TRANSPORT?

A. The FCC concluded that competing carriers are impaired on a national level without access to transport (DS1, DS3, and dark fiber).[3] As a result, the FCC rules require that competing carriers have access to unbundled transport everywhere unless a state commission finds a lack of impairment as to specific routes.

2 *TRO*, ¶ 7.
3 *See* also *TRO*, ¶ 359 (stating that the FCC finds "on a national level that requesting carriers are impaired without access to unbundled dark fiber transport facilities … [DS3 transport and DS1 transport]."

Q. DID THE FCC'S IMPAIRMENT ANALYSIS DISTINGUISH BETWEEN DIFFERENT TYPES OF TRANSPORT?

A. Yes. The FCC segregated dedicated transport by levels of capacity before performing its impairment analysis, stating that this would "be the most informative manner to review the economic barriers to entry that affect how a competing carrier is impaired without access to unbundled transport."[4] The FCC performed separate impairment analyses for OC(n) Transport, Dark Fiber Transport, DS3 Transport, and DS1 Transport.

Q. ARE THE FCC'S FINDINGS ON IMPAIRMENT CONSISTENT WITH TYPICAL CLEC FACILITIES-BASED NETWORKS, INCLUDING AT&T'S NETWORK?

A. Yes. Generally, facilities-based CLECs have constructed one or more fiber rings of varying scope, and then connected customers to their network using those fiber rings whenever practical. Nevertheless, in a majority of instances, the CLEC will still need access to unbundled loops and loop/transport combinations (*i.e.*, "enhanced extended links", or "EELs") to connect the majority of retail customers to its network. The CLEC's fiber rings connect aggregation points, such as collocation arrangements, and major customer sites to the carrier's switching or hub site. Although a CLEC may possess a facility that passes by two

4 *TRO*, ¶ 380.

collocations, it will only rarely *connect* those two collocations to create a service configuration that is functionally equivalent to the dedicated transport UNE.[5]

Facilities-based CLEC networks typically rely on UNE loops to serve the majority of their customers, as the fixed and sunk costs associated with building out loop facilities, as well as the delays in constructing such facilities, would place the CLECs at such a disadvantage that they would not be able to compete with the ILEC's already deployed infrastructure. Regardless of how they are configured, loop facilities are the fundamental component to serving customers. From a CLEC perspective, a loop is the connection between the retail customer's premises and the CLEC's telecommunication's network. Critically, however, the loop UNE provides only a portion of the path between the customer and the CLEC's network, *i.e.*, the connection between the customer's premises and the incumbent wire center that would ordinarily serve that location (if the incumbent provided the retail service). The CLEC's entire loop may consist of a UNE loop that is cross-connected to a self-provided backhaul facility; a UNE-Loop that is obtained in combination with dedicated transport (*i.e.*, an EEL); a UNE-Loop that is cross-connected (in a CLEC collocation) to leased transport, which in turn connects to a self-provided facility (a loop provided with hubbed/aggregated transport); or, in rare instances, a completely self-provided facility. Similarly,

[5] The FCC specifically noted that "[a]lthough wholesale providers may lease entire transport ring offerings, for purpose of this trigger, a wholesale offering must be made available on a route-specific basis." *TRO*, ¶ 412, n. 1272. This means that for the wholesale trigger to be met, a CLEC must actually offer to make available transport on a specific route, not merely have a ring in place.

dedicated transport – the unswitched connection between two incumbent buildings – is typically used as the functional equivalent of the incumbent's loop feeder plant. It links the loops coming from a broad number of customer premises to a dedicated facility that connects to the CLEC's local network.

The critical point is that *both* loop UNEs *and* dedicated transport UNEs are employed by CLECs to provide what is *the functional equivalent of a loop in the incumbent's network*. Thus, when the Commission considers incumbent LECs' requests to limit access to loop and transport UNEs, the Commission should recognize that the incumbent is seeking to limit the CLECs' ability and options to connect customers to its network, thereby limiting CLEC facilities-based competition.

Q. MIGHT A CLEC DEPLOY MULTIPLE RINGS IN A SINGLE GEOGRAPHIC AREA?

A Yes. Multiple rings may exist in the same locality for the same CLEC for a number of reasons, including the timing and availability of construction funding, unanticipated capacity requirements and/or building issues (such as ROW access or construction moratoriums) that may have precluded a comprehensive and cohesive build-out strategy. However, the physical routing of a cable is not dispositive as to how a CLEC deploys service. A single fiber cable contains many individual fiber strands. Thus, one cannot automatically conclude that two offices on a ring are necessarily connected in a manner that allows traffic to pass

between them simply because a common cable passes through each office. In fact, it is just as likely that two offices are on *different fibers* in *different sheathes* within the cable and are not connected to each other. But even if the two ILEC offices were on the same strand, it is not generally the case that the CLEC's network is designed to pass traffic between the two offices. Although it is theoretically possible to connect central offices on different fiber rings (indeed it is "theoretically possible" to connect any two points), transport routes linking the two central offices are not generally provisioned in such circumstances because, as I pointed out earlier, the CLEC's primary interest is connecting the retail customer location to its network. As the FCC noted, the issue is not whether the CLEC has a ring; the issue is whether the CLEC offers or provides service on a specific route.[6]

III. SELF-PROVISIONING TRIGGER FOR DEDICATED TRANSPORT

Q. WHAT IS THE PURPOSE OF THE FCC'S SELF-PROVISIONING TRIGGER FOR UNBUNDLED TRANSPORT?

A. In the *TRO*, the FCC made a national finding that CLECs are impaired with respect to access to dedicated transport. The FCC allowed ILECs to challenge these impairment findings on a route-specific basis before state commissions. One of the ways ILECs may demonstrate non-impairment is by showing that

[6] *TRO*, ¶ 412, n. 1272.

specific CLECs provide dedicated transport on their own and to a degree that is sufficient, at least in theory, to provide customer choice and to exert competitive discipline upon the incumbent at or between particular locations. This is known as the "Self-Provisioning Trigger."

Q. WHAT CAPACITY LEVELS ARE SUBJECT TO THE SELF-PROVISIONING TRIGGER?

A. The Self-Provisioning Trigger only applies to DS3 and dark fiber transport. DS1 transport is not included under this trigger.

Q. WHAT MUST QWEST DEMONSTRATE TO THE COMMISSION TO SHOW A SELF-PROVISIONING TRIGGER IS MET?

A. FOR transport, Qwest must demonstrate there are *three or more* unaffiliated competing providers that use their own self-deployed facilities to deliver traffic between two local offices at transmission capacities below 12 DS3S. In other terms, the facility in question must carry 12 or fewer DS3S of capacity that originates in the one office and terminates in the other office on the defined route.

Q. WHAT MUST QWEST DEMONSTRATE TO PROVE THAT THE SELF-PROVISIONING TRIGGER IS SATISFIED FOR DEDICATED TRANSPORT BETWEEN TWO QWEST WIRE CENTERS?

A. Qwest must demonstrate that, for each of the three competitive providers:

- They are not affiliated with each other or Qwest;

- Each counted self-provisioned facility along a route must be operationally ready to provide transport between two Qwest central offices;
- Each counted self-provisioned facility terminates in a collocation arrangement; and
- It is serving customers using its own facilities on the route at the relevant capacity levels (fewer than 12 DS3s or dark fiber).

Q. FOR THE SELF-PROVISIONING TRIGGER TO APPLY, MUST A CLEC SELF-PROVISION THE SPECIFIC CAPACITY LEVEL IN QUESTION?

A. Yes. The *TRO* contemplates that the Self-Provisioning Trigger applies when a CLEC self-provisions the particular capacity level in question. For example, a CLEC that self-provisions at the OC(n) capacity level does not necessarily self-provision at the DS1 or DS3 capacity level.

Q. WHAT ARE THE KEY ISSUES UNDER THE SELF-PROVISIONING TRIGGER FOR WHICH THE COMMISSION MUST ENSURE THAT QWEST IS USING THE APPROPRIATE INTERPRETATION?

A. The first key issue is to ensure that Qwest is defining transport routes in a manner consistent with the FCC's Order, and is applying those definitions appropriately. For the CLEC, the "relevant central office" is its first transmission node (for dedicated services).

The FCC defined a transport route as "a connection between wire center or switch 'A' and wire center or switch 'Z'." The FCC elaborated that "even if, on the

incumbent LEC's network, a transport circuit from 'A' to 'Z' passes through an intermediate wire center 'X,' the competing providers must *offer service* connecting wire centers 'A' and 'Z,' but do not have to mirror the network path of the incumbent LEC through wire center 'X'."[7] Thus, the FCC requires that transport service must be offered between the two wire centers in question and that, regardless of how the facility is physically routed, there are points of entry and exit for traffic at both of the two offices under consideration. On the other hand, it is not correct to interpret the definition to mean that the connection may rely on either a circuit switch or a packet/data switch to create the end-to-end path.

Q. WHAT IS THE APPROPRIATE EVIDENCE THAT QWEST SHOULD PROVIDE TO MEET THE FCC'S REQUIREMENT OF OPERATIONAL READINESS FOR THE SELF-PROVISIONING TRIGGERS?

A. The only effective and practical way for Qwest to demonstrate that a CLEC is operationally ready under the Self-Provisioning Trigger is for Qwest to produce evidence that the CLEC is actually providing service at the identified capacity level on the given transport route. This is consistent with the FCC's requirement that evidence be provided that CLECs *offer service* between two wire centers on a given transport route. While the existence of CLEC facilities is obviously a prerequisite to the provision of service, the mere existence of such facilities does

[7] *TRO*, ¶ 401 (emphasis added).

not demonstrate whether the equipment can be used to provide the service to satisfy the trigger, whether the CLEC can provide service at the requisite capacity level, or whether the CLEC has performed the necessary engineering, provisioning, and administrative tasks to ensure that service can be provided at all or in a sufficiently timely manner to permit it to provision services to customers seeking those services within a competitive timeframe.

Q. IF A CARRIER SATISFIES THE REQUIREMENTS FOR THE SELF-PROVISIONING TRIGGER, WILL IT AUTOMATICALLY QUALIFY AS AN ELIGIBLE PROVIDER UNDER THE COMPETITIVE WHOLESALE FACILITIES TRIGGERS OR VICE VERSA?

A. No. The FCC emphasized that the two types of triggers are separate and distinct. The Self-Provisioning Trigger examines whether CLECs have actually deployed their own facilities on a particular route and then made those facilities available on a retail basis. In contrast, the Wholesale Trigger examines whether the provider makes its facilities available to other carriers (rather than just to retail customers).

IV. CRITIQUE OF QWEST'S SELF-PROVISIONING TRIGGER ANALYSIS

Q. HAVE YOU REVIEWED QWEST'S TESTIMONY CONCERNING THE APPLICATION OF THE SELF-PROVISIONING TRIGGER TO DEDICATED TRANSPORT ROUTES?

A. Yes, I have reviewed the testimony of Ms. Rachel Torrence.

Q. WHAT WERE THE CONCLUSIONS OF THE SELF-PROVISIONING TRIGGER ANALYSIS AS PROVIDED BY QWEST?

A. Qwest asserts that 29 routes satisfy either the self-provisioning trigger or wholesale trigger. Qwest has not broken out the routes by triggers. It does not provide one list of routes that it believes satisfy the self-provisioning trigger and one list of the routes that it believes satisfy the wholesale trigger. The totality of routes identified by Qwest are:

1. Bellevue Glen Court to Bellevue Sherwood
2. Bellevue Sherwood to Renton
3. Renton to Kent O'Brien
4. Kent O'Brien to Seattle Cherry
5. Seattle Cherry to Seattle Duwamish
6. Seattle Duwamish to Seattle Main
7. Seattle Main to Seattle East
8. Seattle East to Seattle Elliott (via Seattle Main)
9. Seattle Elliott to Seattle Atwater
10. Seattle Atwater to Seattle Campus
11. Seattle Duwamish to Seattle East
12. Renton to Seattle Cherry

13. Renton to Seattle Duwamish
14. Seattle Main to Seattle Elliott
15. Seattle East to Seattle Campus
16. Bellevue Sherwood to Kent O'Brien (express thru Renton)
17. Bellevue Sherwood to Seattle Cherry (express thru Renton)
18. Bellevue Sherwood to Seattle Duwamish (express thru Renton)
19. Kent O'Brien to Seattle Duwamish (express thru Seattle Cherry)
20. Seattle Duwamish to Seattle Elliott (via Seattle Main)
21. Seattle Duwamish to Seattle Campus (via Seattle East)
22. Seattle Main to Seattle Atwater (via Seattle Elliott)
23. Seattle Main to Seattle Campus (via Seattle East)
24. Seattle Elliott to Seattle Campus (via Seattle Atwater)
25. Seattle East to Seattle Atwater (via Seattle Campus)

After AT&T submitted discovery questions to Qwest, on January 7, 2004, Qwest revised a number of exhibits. In Qwest's revised Exhibit RT-9HC, Qwest added 4 additional routes:

26. Seattle Duwamish to Seattle East (via Seattle Main)
27. Seattle Duwamish to Seattle Campus (via Seattle Main to Seattle East)
28. Seattle Duwamish to Seattle Atwater (via Seattle East to Seattle Campus)

29. Seattle Main to Seattle Campus (via Seattle Elliot to Seattle Atwater)[8]

Based on Qwest exhibit RT-9HC, Qwest identified 3 or more self-provisioners on the following routes: 7, 8 and14. According to Qwest, all the routes except 12 and 13 have 3 or more self-provisioners if wholesale providers identified by Qwest on the route are also counted.

Q. WHAT WAS THE PROCESS QWEST USED TO IDENTIFY THE DEDICATED TRANSPORT ROUTES THAT IT CLAIMS SATISFY THE SELF-PROVISIONING TRIGGER?

A. Qwest's analysis is simple, although inadequate. It determined central offices where CLECs are collocated. It then determined whether a CLEC has an entrance facility that terminates on some type of Qwest equipment. If refers to this as a fiber-based collocation.[9] It then determined if it "appeared" that there were existing fiber facilities of the CLEC between two of the central offices,[10] "either connect[ing] directly to the Qwest network or pass[ing] in close proximity…"[11] That's it. Based on this methodology, it proposes to challenge 29 routes. Qwest

[8] At a prehearing conference held on January 30, 2004, Qwest stated that it did not add any routes, although there is no question it added routes 26 – 29 to Replacement Exhibit RT-9HC. Qwest has not proven that the individual routes that make up routes 26 – 29 are, in fact, being self-provisioned or provided at wholesale consistent with the requirements of the FCC's triggers. Therefore, patching together multiple routes proves nothing. Nor has Qwest demonstrated, among other things, that there is, in fact, connectivity between the routes it has patched together to come up with routes 26 – 29. This demonstrates, once again, the problems inherent in Qwest's connect-the-dots approach.
[9] Torrence Direct (Exhibit RT-1T) at 15.
[10] *Id.*, at 16.
[11] *Id.*, at 22.

further *assumed* that if the carrier deployed facilities with attached OC(n) electronics it meets the triggers for DS1 (wholesale only), DS3 and dark fiber.[12]

Q. DID QWEST PERFORM THE APPROPRIATE ANALYSIS TO DEMONSTRATE THAT THE SELF-PROVISIONING TRIGGER WAS SATISFIED FOR EACH OF THE IDENTIFIED DEDICATED TRANSPORT ROUTES?

A. No. Instead of collecting and analyzing information on specific routes between wire centers "a" and "z" for each competing provider as required by the FCC, Qwest only gathered enough information to implement what I call a "connect the dots" methodology. This methodology is based solely on assumptions. Qwest assumes that transport routes exist between each and every fiber-based collocation arrangement for a given carrier, without regard for the carrier's actual use of the collocation arrangement. Qwest did not cite to any information in discovery that provides affirmation by any carrier that it is *actually providing* dedicated transport at the specific DS3 or dark fiber levels.

What Qwest fails to do, in particular, is to start with a valid definition of "dedicated transport." Lacking this correct foundation, the remainder of its analysis, which is also flawed, fails to make the required demonstration.

[12] *Id.*, at 12-14

Q WHAT IS THE APPROPRIATE DEFINITION OF DEDICATED TRANSPORT FOR PURPOSES OF THE COMMISSION'S IMPAIRMENT EXAMINATION?

A. In contrast to the rules that existed before the FCC issued the *TRO*, the definition of dedicated transport has been limited to transmission facilities that connect two endpoints *within the incumbent's network*. Previously, ILEC facilities that connected a CLEC collocation (*i.e.*, a location within the incumbent's building) and a CLEC's switch or transport node (facilities commonly referred to as entrance facilities) were classified as dedicated transport.[13] These facilities -- which are now excluded from the category of "dedicated transport" under the FCC's UNE rules -- have much the same characteristics as a loop facility connecting a non-ILEC location to an ILEC. However, they cannot properly be used to demonstrate that a carrier "provides dedicated transport."[14]

It is also essential to recognize that *dedicated* transport facilities are, by definition, facilities that *do not* rely on switching functionality to establish the end-to-end path. Indeed, the entire debate between incumbents and their competitors on this

[13] Accordingly, the incumbent cannot have its cake (eliminate its obligations to provide entrance facilities as dedicated transport) and eat it too (assert triggers are met by counting entrance facility termination points as end point for dedicated transport routes).

[14] Entrance facilities represent a point of high demand concentration, because they provide the CLEC with connectivity between two networks (the ILEC's and its own). As such, they are the first place a CLEC will find it practical to build facilities. In such cases, the CLEC is extending its facilities from its network closer to its retail customers. From a conceptual standpoint, the configuration has a "hub-and-spoke" appearance, with the CLEC central network location, such as a switch, as the hub and high volume collocations where customer loops are accessed as the "fiber" spokes. Accordingly, it is likely that a CLEC with a robust network will have a number of fiber collocations in a single geographic market. However, such facilities are not "dedicated transport" because they do not provide connectivity between two points on the ILEC's network.

issue has focused on whether the ILECs must offer dedicated transport as a UNE or can require competitors to purchase *special* access services as a substitute. It goes without saying that special access services (as opposed to "switched" or "common" transport,") include no switching, and rates for ILEC dedicated transport (as a UNE) also include no switching costs. Accordingly, when reviewing CLEC deployment of "dedicated transport" for the purposes of determining impairment, under either the trigger or potential deployment analysis, the Commission should act in a consistent manner and consider only facilities that provide *direct connectivity* between two points on the incumbents' networks, without the use of any intervening switching.

Q. WHAT IS THE SIGNIFICANCE OF THIS TO THE APPLICATION OF DEDICATED TRANSPORT TRIGGERS?

A. The significance is two-fold. First, CLECs generally deploy fiber to provide connectivity between their retail customers and their own network nodes rather than to provide connections that only connect two incumbent LEC offices. Second, merely identifying a carrier's fiber-based collocations most likely identifies only where the CLEC has deployed one end of an *entrance facility.* It certainly is not dispositive as to whether the CLEC has established a dedicated transport between two fiber-based collocations.

In this regard, the Commission should also recognize the severe consequences of using entrance facilities -- which do not qualify as UNEs -- to meet the self-

provisioning trigger for dedicated transport. The harm is especially acute for other CLECs that require a facility between the identified ILEC offices for the purpose of obtaining an EEL or for engaging in transport "hubbing" in order to gain sufficient scale to construct their own facilities. If the incumbent's assertions on this issue resulted in an (erroneous) finding that the self-provisioning transport trigger is met solely because three or more CLECs provide *entrance facilities* to the same set of incumbent offices, then all other competitors would be denied access to dedicated transport on that route, and their ability to use EELs to support additional facilities construction will be impaired.

Q IF A FIBER CABLE RUNS BETWEEN TWO COLLOCATIONS OF THE SAME CLEC IS IT THEN APPROPRIATE TO CONCLUDE DEDICATED TRANSPORT IS PROVIDED?

A. No. The mere existence of a fiber cable running past (or even through) two points proves nothing with regard to its use to provide direct (non-switched) connectivity between those points. First, the Commission should understand that a fiber cable is not a single transmission path. Rather, a single fiber cable is composed of multiple bundles (sheaths) each of which contains multiple fibers strands. Although a cable route may "run through" both ILEC office A and office B, the two offices may not even be connected to the same fiber, much less to fiber in the

same bundle.[15] If the two ILEC offices have not been configured to provide termination of the same fiber pairs on the same transmission system, then the CLEC does not (and cannot) have physical connectivity between the two locations unless a grooming and cross-connection function is provided at a third physical location on the same pairs and system.

In fact, AT&T typically connects its facility-based collocations, that is collocations to which it has constructed fiber facilities to (*i.e.*, an entrance facility), to its network using two-point rings, where one point is the collocation and the second is the AT&T network location (*e.g.*, an AT&T switching center or point of presence).[16] Accordingly, it is not possible to provide "dedicated transport" because, even though more than one collocation is on the came cable route, they are not on the same fiber.

[15] In fact most of the fiber sheathes may only pass by the wire center, remaining in the conduit running down the street in front of the building rather than being split off to enter the wire center. In addition, there is no guarantee that all the fibers that are "peeled off" the main cable actually run to the CLEC's collocation. Once the fiber strands enter the cable vault of the wire center, the incumbent generally provides the connection between the cable vault and the collocation. Frequently, there is a sizeable charge applied *per fiber strand* connected. Hence, the CLEC may not opt to even connect all strands within a sheath to its collocation.

[16] In some instances a third location may be on the ring. This third location will typically be an access point to one or more long distance carriers. In any event, new ring construction practices do not provide for multiple incumbent wire centers on the same ring. In the rare instances that multiple incumbent wire centers exist on the same ring, this condition is likely to be the result of (1) acquiring the fiber network of a company that deployed such configurations or (2) sales force error (*e.g.*, sales personnel making commitments based on an erroneous belief that a building was on AT&T's network when it was not). In any event, the presence of multiple incumbent wire centers on the same ring/transmission system is a rare operational exception to AT&T's network engineering practices.

Q WHY WOULD A CLEC PUT A COLLOCATION ON THE SAME FIBER CABLE BUT NOT THE SAME FIBER?

A There are a number of practical reasons. First, the ability to place a collocation on a particular fiber presumes operational readiness of all the collocations on the fiber at essentially the same time the fiber strand/system was activated. Said another way, the entire transmission system can only be activated when the last node is ready. Past experience has shown that delay at one or more sites is frequently experienced. For example, delays in collocation readiness or construction impediments at only one location may force the carrier to choose between a deferral of activation for the entire system or to implement a different network design. Such a delay, in turn, may make the difference between whether or not a large retail customer accepts service from the CLEC. Therefore, the more practical approach is to run the fiber cable into a location (or to the access point just outside the wire center), if possible, and then activate each collocation on its own two-point ring using its own fiber pair.[17] This has the advantage of divorcing the timing of the cable construction from the timing of collocation activation or augment. A second major advantage is that extremely precise projections of the

[17] The term "fiber pair" is used here as a term of convenience. Typically, a bi-directional (protected) transmission system utilizes one pair of fibers to transmit traffic in one direction (*e.g.*, a clockwise direction) with a second pair assigned to provide transmission in the opposite direction (*e.g.*, the counterclockwise direction). This provides for immediate restoration capability in the event of a fiber cut or transmission equipment failure on the active path. Accordingly four fiber strands terminate on the optical multiplexer but two fiber strands (one in the primary and one in the backup direction) are required for the entire "circumference" of the ring. Note, however, that the segment from A to B does not necessarily occupy the same fiber pair as the connection from B to A.

demand accessible at the collocation are not required – just a reasonable assurance that a minimum critical mass will be achieved. After that, capacity needed to provide service can be achieved using the existing capacity of the two-point system (*i.e.*, by adding plug-in modules) or by upgrading the system to higher transmission capacities (*e.g.*, from OC48 to OC192). Should such an upgrade be required, it impacts only the customers served out of that particular wire center. In contrast, if multiple wire centers were on the same transmission system (*i.e.*, fiber) all the wire centers on that fiber are potentially affected by a reconfiguration.

Q ISN'T IT TECHNICALLY FEASIBLE FOR A CLEC TO CREATE A CONNECTION IF THE TWO OFFICES ARE ON THE SAME FIBER CABLE?

A Yes, but there is a significant distinction between what is technically feasible and what is operationally and economically practical. Even though technology may permit a carrier to create a dedicated transport path between two points, the cost of doing so can be substantial, particularly given that the demand between the two endpoints in the incumbent's network will likely be very small. Accordingly, the FCC's trigger analysis properly requires that a "trigger firm" actually be providing service between the identified offices that form a dedicated transport route. As with all facilities construction, a carrier cannot rationally be expected to incur the costs of providing connections unless it is a rational approach to the

serving arrangement and has the prospect to generate revenues sufficient to cover the costs incurred. And it is highly likely that a CLEC's demand for capacity between two ILEC wire locations on its own ring would be too small to justify such an approach.

Q WHY DO YOU SAY A CLEC WOULD NOT BE IN THE BUSINESS OF PROVIDING THE EQUIVALENT OF DEDICATED TRANSPORT ON A RETAIL BASIS?

A The practical purpose of connecting one ILEC office to another (as opposed to connecting each office to the CLEC's network) is either (1) to provide a dedicated (private line) retail service between two customer premises, one of which is served by a loop from office A and the other served by a loop from office B, or (2) to provide wholesale service to other carriers between those two endpoints. Only the former situation would result in a condition appropriate for consideration in a self-provisioning trigger, and even then only if the total demand were less than 12 DS3s worth of capacity (the only capacity that can be obtained as a UNE).

Using such a configuration for retail service strains credibility. A customer that might have substantial demand between two ILEC wire centers would also (most likely) have even more traffic running to locations well beyond those two wire centers. That is, a customer is unlikely to have multi-megabits of transmission between two points in close proximity unless those two points are also connected to many other locations outside the local area. Given that such a hypothetical

customer would be a very large enterprise customer, the CLEC would likely also build the loop out to the customer location. Accordingly, the CLEC would not be using or providing "dedicated transport" in that case, because the end-points of the facility are two customer premises, not two incumbent wire centers. Furthermore, the interconnection of the segments (loop and transport) would not likely occur in the incumbent's offices but would instead be made in a building where the CLEC has unrestricted access, typically one owned (or leased) by the CLEC. Again, such a configuration would not connect two ILEC wire centers and therefore could not even be considered a dedicated transport configuration.

Q WHY WOULD THE CLEC LIKELY CONNECT THE SELF-PROVIDED LOOP AND INTERPREMISES SEGMENT AT A LOCATION OTHER THAN THE TRADITIONAL SERVING WIRE CENTER (OF THE INCUMBENT) FOR THE PREMISES?

A The self-constructed loop facility would generally run back to the CLEC's network node, rather than to ILEC collocation, and then be connected to other fiber as the particular customer design warrants. This affords the CLEC a better ability to control service quality, because its nodes are generally manned round-the-clock, or at least are generally accessible. In addition, fewer potential points of failure (splice points and add/drop multiplexers) are generally involved. Furthermore, CLECs generally employ collocation to obtain interconnection with the incumbent LEC's network and to gain access to UNEs. In this instance,

neither is involved. As a result, a CLEC would not ordinarily use costly collocations to create the connection, particularly one that connects facilities that it self-provides entirely from the customer's premises to its network.

Q ARE THERE OTHER REASONS WHY A CLEC WOULD NOT PROVIDE "DEDICATED TRANSPORT" DESPITE HAVING A CABLE BETWEEN TWO INCUMBENT OFFICES?

A Yes. Equally important from an operational/network perspective, is the fact that transmission capacity on a multi-node fiber ring is "zero sum." That means that if capacity is "drained off" to provide direct termination of traffic between two points on the ring (*i.e.,* to provide dedicated transport between two ILEC offices), it reduces the CLEC's capacity to terminate traffic at other points on the same ring. This occurs because all traffic on a protected ring travels around the entire ring on a transmission system that has fixed capacity.[18]

A simple example can help illustrate the constraint. The table below describes an OC48 system on a hypothetical CLEC ring that passes through two ILEC central offices and a CLEC switching node. In this example, all traffic from ILEC office A is routed directly to the CLEC's switching node and all traffic from ILEC office B is also routed directly to the CLEC's switching node, and there are no direct

[18] This characterization is a simplification. In actuality, it is more likely that the transmission segment will be active in only one direction. In the event that a transmission failure is detected, the system will automatically activate a transmission path in the opposite direction.

connections between ILEC offices A and B. In that case, the ring has characteristics shown below:

Task	Direction	Collo A	CLEC Node N	Collo B
Transmit	Clockwise	A-N: 24 B–A–N: 24	N-B: 24 N-B-A: 24	N-B-A: 24 B-A-N: 24
Receive	Clockwise	N-B-A: 24; B-A-N: 24	A-N: 24 B-A-N: 24	N-B: 24 N-B-A: 24
Transmit	Counter clockwise	A-B-N: 24 N-A-B: 24	N-A-B: 24 N-A: 24	A-B-N: 24 B-N: 24
Receive	Counter clockwise	N-A-B: 24 N-A: 24	A-B-N: 24 B-N: 24	A-B-N: 24 N-A-B: 24

The entire capacity of the system is utilized in the above example.

However, if the CLEC were to reconfigure its ring to permit the direct exchange of traffic between ILEC offices A and B, the capacity available to permit ingress and egress at the CLEC's network (*i.e.,* A to N and B to N) is reduced. In this case, let us assume 6 DS3s are provisioned between A and B. The carrier's revised network configuration is reflected in the following table:

Task	Direction	Collo A	CLEC Node N	Collo B
Transmit	Clockwise	A-N: 21 B–A–N: 21 A-N-B: 6	N-B: 21 N-B-A: 21 A-N-B: 6	N-B-A: 21 B-A-N: 21 B-A: 6
Receive	Clockwise	N-B-A: 21; B-A-N: 21	A-N: 21 B-A-N: 21	N-B: 21 N-B-A: 21

		B-A: 6	A-N-B: 6	A-N-B: 6
Transmit	Counter clockwise	A-B-N: 21 N-A-B: 21 A-B: 6	N-A-B: 21 N-A: 21 B-N-A: 6	A-B-N: 21 B-N: 21 B-N-A: 6
Receive	Counter clockwise	N-A-B: 21 N-A: 21 B-N-A: 6	A-B-N: 21 B-N: 21 B-N-A: 6	A-B-N: 21 N-A-B: 21 A-B: 6

Thus, the direct routing of traffic between intermediate points on a ring will be the rare exception rather than the rule, because it "steals" capacity from the mainstream purpose of the CLEC's self-provided facilities – to connect retail customers to its network.

Q WOULD THE SUBOPTIMIZATION YOU DESCRIBED ABOVE BE ADDRESSED BY EFFECTIVELY MAKING A CONNECTION BETWEEN THE TWO INCUMBENT OFFICES AT THE CLEC'S NODE?

A No, not without the insertion of additional grooming functionality. This grooming capability is provided through a device such as a Digital Cross-connection System (DCS). A DCS is not an inexpensive device and itself consumes floor space and power resources. Nevertheless, the Commission must keep in mind that technical feasibility is not sufficient evidence to conclude that there has been actual provisioning of dedicated transport. I believe that it is a rare instance when the following converge:

- Two customer premises with substantial inter-premises demand justifying a dedicated connection for only that demand, and
- The two locations home on different ILEC wire centers in the same local area, and

- A CLEC has deployed a fiber cable between the two wire centers and connects the collocations within each wire center, and
- The two wire centers are connected to a common CLEC network location on a transmission system having sufficient available capacity and the same transmission system on the same fiber, and
- The CLEC finds that the point-to-point demand between the locations, when combined with other demand at those premises is insufficient to build its own loop, (or in the alternative, chooses to build a loop to the collocation in the ILEC office rather than to its own network access point), and
- The CLEC has sufficient spare capacity for backhaul to its own network that the carrier can afford to dedicate demand to the point-to-point application.

Each condition is unlikely to occur. The joint probability of all six occurring is practically nil.

Q. PLEASE EXPLAIN YOUR POSITION THAT QWEST HAS FAILED TO PRESENT THE INFORMATION NECESSARY TO IDENTIFY ROUTES SERVED BY COMPETITIVE PROVIDERS.

A. As I stated in Section III above, the FCC has defined dedicated transport as "a connection between wire center or switch 'A' and wire center or switch 'Z'." The FCC elaborated that "even if, on the incumbent LEC's network, a transport circuit from 'A' to 'Z' passes through an intermediate wire center 'X,' the competing providers must *offer service* connecting wire centers 'A' and 'Z,'

although the physical facilities need not follow the same path through the network as that employed by the incumbent LEC. Qwest has not demonstrated that any, much less three CLECs, connect the same two incumbent offices using an unswitched path over self-deployed facilities.

Q. IF THERE IS AN INTERMEDIATE SWITCH ON THE PATH THAT IS REQUIRED TO CONNECT POINTS "A" AND "Z", IS THE PATH DEDICATED TRANSPORT?

A. No. There is no historical precedent to justify the designation of a path that requires intermediate switching as "dedicated" transport.

Q. WHY IS IT NECESSARY FOR QWEST TO DEMONSTRATE THAT DEDICATED TRANSPORT SERVICE IS BEING PROVIDED ON EACH ROUTE?

A. As I stated earlier in my testimony, CLECs generally establish collocation arrangements primarily, if not exclusively, for the purpose of aggregating unbundled loop facilities and connecting them to a facility terminating at the CLEC network (*i.e.*, on a switch or at a network node). Thus, dedicated transport purchased from the ILEC is typically employed within the CLEC network as the functional equivalent of ILEC loop feeder plant,[19] not to provide service between two intermediate ILEC offices on the CLEC's local ring. Because collocations

[19] The Commission should note that the feeder subloop UNE is not eligible for unbundling relief.

are generally not used to provide transport connectivity between ILEC wire center pairs, Qwest's "connect the dots" approach drastically overstates the number of actual transport routes connecting wire centers and cannot be used to support its transport trigger claims.

Q. WHY WAS IT NECESSARY FOR QWEST TO IDENTIFY THE SPECIFIC CAPACITY LEVELS IN SERVICE AT EACH LOCATION?

A. It is essential that equipment being used for OC(n) level services be distinguished from equipment providing DS3 or dark fiber transport. As the FCC determined, carriers generally configure transport facilities at much higher capacity levels than a DS3, so a reasonable assumption is that, even if there actually is a connection between two Qwest wire centers, it is most likely provisioned at an OC(n) level of capacity for data networking purposes, which would make it inapplicable for the self-provisioning trigger. Ms. Torrence states that Qwest assumed that if carriers deploy at the OC(n) levels they are capable of providing service at DS1 or DS3 levels.[20] However, self-provisioned facilities at the OC(n) level do not qualify as trigger candidates.

[20] Torrence Direct (Exhibit RT-1T) at 12.

Q. BASED UPON THE INFORMATION PRESENTED BY QWEST, IS IT POSSIBLE TO DETERMINE WHETHER ANY TRANSPORT ROUTES MEET THE SELF-PROVISIONING TRIGGER?

A. No. Due to the fundamental errors in Qwest 's approach, it has not presented the appropriate information nor has it performed the required follow-on analysis. The only information that Qwest has presented at the present time is an over-inclusive list of collocations, each of which may or may not be currently part of a transport route, and as to each potential route, the capacity level is undetermined. Qwest's connect-the-dots approach thus relies upon multiple leaps of faith not an examination of fact.

The Commission should also note in this context that if it were to accept Qwest's approach, which simply looks at end-points instead of the actual use of facilities between the end-points (as the *TRO* requires), small errors have expansive impacts. For example, if the ILEC identified 7 collocations as endpoints for alleged transport routes but 3 of the seven collocations were actually cases where the CLEC has deployed only entrance facilities, 15 of the 21 identified routes would be *erroneously* walled off from competition.[21] Thus, small errors of classification have substantial impact on the Commission's analysis, and the

[21] The calculation of possible routes is based on the formula n*(n/2), where "n" is the number of end points (here common buildings where at least three unaffiliated carriers all possess fiber-based collocation). This formula can be found in any basic statistics book: it is the number of unique pairs (or combinations) that can be drawn from a population when order of the pair drawn does not matter. Accordingly, with 7 points the number of affected routes is 7*(6/2) = 21. Thus, if the actual number of connected offices were in fact 4 (rather than 7), the number of routes that actually have connectivity is 4*(3/2) = 6, and the result of using the ILEC's "connect the dots" method is 15 misclassified routes.

incumbent's approach is prone to large classification error. And, of course, classification errors work only to the incumbent's advantage, because they expand the cases in which potential competitors are inappropriately denied access to UNEs.

Q. TO BE CLEAR, DO THE POTENTIAL TRANSPORT ROUTES MENTIONED ABOVE MEET THE SELF-PROVISIONING TRIGGER?

A. No. Identifying the end points only identifies possible routes for which the triggers may be met, and simply narrows the field for further consideration. Thus, it is the first step of the analysis, but hardly the last. These routes still need to be examined to determine whether connections exist for 3 or more carriers between each endpoint and that specific capacities are being offered to customers, consistent with the FCC requirement. It is only by completing these additional steps that the possibility of serious impact due to misclassification is minimized.

Q. ARE THERE ANY OTHER FLAWS THAT YOU OBSERVED IN QWEST'S ANALYSIS AS TO DEDICATED TRANSPORT?

A. Yes. In addition to the fact that Qwest failed to provide the appropriate data concerning connections between wire centers, Qwest also did not attempt to determine for any of the identified routes whether the routes pass through a CLEC switch. As I discussed above, dedicated transport does not rely upon an intermediate switch to create the end-to-end connection. To constitute dedicated

transport under the self-provisioning trigger, not only must all or part of the facility be dedicated to a particular carrier or use, but there also cannot be any switching interposed along the transport route. For example, if a CLEC has a transport route that runs from its collocation space to its own switch (*i.e.*, the CLEC deployed an entrance facility), that route is *not* dedicated transport under the *TRO* and may not be counted toward the self-provisioning (or the wholesale) trigger.

Q. HOW SHOULD THE COMMISSION PROCEED TO THE EXTENT THAT QWEST HAS NOT COLLECTED ALL OF THE DATA NECESSARY TO DEMONSTRATE THE TRIGGERS ARE MET?

A. The burden of proof to show that the self-provisioning trigger and wholesale trigger have been met is on Qwest, and it must demonstrate that the FCC's national findings of impairment do not apply for specific routes at specific capacity levels. And critically, CLECs will be irreparably harmed if they are denied access to transport for routes where they are actually impaired, as would occur if the Commission were to accept Qwest's superficial "connect the dots" approach. There is no doubt that the analysis required by the *TRO* requires rigorous data collection and careful assessment, examination and verification. The CLECs should not be penalized (and Qwest rewarded) if Qwest's case is deficient, nor are the CLECs required to disprove Qwest's allegations.

V. WHOLESALE TRIGGER FOR DEDICATED TRANSPORT

Q. WHAT IS THE PURPOSE OF THE FCC'S WHOLESALE TRIGGER FOR DEDICATED TRANSPORT?

A. In the *TRO*, the FCC made a national finding that CLECs were impaired with respect to access to dedicated transport. The FCC allowed that ILECs may challenge these impairment findings on a route-specific basis before the state commissions. One of the ways Qwest may demonstrate non-impairment is by showing that a sufficient number of other carriers offer dedicated transport on a wholesale basis. This is known as the "Wholesale Trigger."

The Wholesale Trigger provides Qwest an opportunity to demonstrate that there is no impairment for a specific route by identifying locations for which there are alternative providers offering wholesale transport services to CLECs. In addition to evidence provided under the self-provisioning trigger, Qwest is also obliged to demonstrate that the alternative provider: (1) is actually offering wholesale service on a widely available basis for the specific route at the requisite capacity level; (2) has equipped its network to facilitate numerous wholesale customers; and (3) has developed the appropriate systems and procedures to manage a wholesale business.

Q. WHAT CAPACITY LEVELS ARE SUBJECT TO THE WHOLESALE TRIGGERS FOR TRANSPORT?

A. Wholesale transport at both the DS1 and DS3 levels are subject to the Wholesale Trigger. Dark fiber transport is also subject to the Wholesale Trigger.

Q. WHAT MUST QWEST DEMONSTRATE TO THIS COMMISSION TO SATISFY THE WHOLESALE TRIGGER FOR DEDICATED TRANSPORT?

A. The Wholesale Trigger examines whether there are two competing providers offering a bona fide wholesale product to other carriers on the specific route.

Q. WHAT MUST QWEST DEMONSTRATE TO SATISFY THE WHOLESALE PROVISIONING TRIGGER FOR DEDICATED TRANSPORT?

A. The wholesale trigger for dedicated transport requires specific evidence that:

- Two or more competing providers not affiliated with each other or with Qwest are present on the route;
- Each provider has deployed its own transport facilities "and is operationally ready to use those facilities to provide dedicated … transport along the particular route";
- Each provider "is willing immediately to provide, on a widely available basis," dedicated transport to other carriers on that route;
- Each provider's "facilities terminate in a collocation arrangement at each end of the transport route that is located at an incumbent LEC premises *and* in a similar arrangement at each end of the transport route that is not located at an incumbent LEC premises"; and

- Requesting telecommunications carriers are able to obtain reasonable and nondiscriminatory access to the competing provider's facilities through a cross-connect to the competing provider's collocation arrangement.[22]

Q. FOR THE WHOLESALE TRIGGERS TO APPLY, MUST A CARRIER OFFER AT WHOLESALE THE SPECIFIC CAPACITY LEVELS IN QUESTION?

A. Yes. The *TRO* contemplates that the Wholesale Trigger applies when a carrier offers for wholesale the particular capacity level in question. For example, a carrier that is a wholesale provider of transport at the OC(n) capacity level would not necessarily offer transport at the DS1 and DS3 levels on a "widely available" basis, nor can it be assumed that it does so. Therefore, Ms. Torrence's assumption -- that carriers that deploy fiber facilities at the OC(n) level are capable of provisioning facilities at the DS1 and DS3 level[23] -- is meaningless for purposes of the wholesale trigger, because not only it does fail to show that the carrier is actually offering the service at a particular capacity level (either DS1 or DS3), it fails to show that the carrier is making the transport widely available to other carriers at a particular capacity level.

[22] *See* 47 C.F.R. § 51.319(e)(1)(ii) [DS1 transport], 51.319(e)(2)(i)(B) [DS3 transport], 51.319(e)(3)(i)(B) [dark fiber transport].
[23] Torrence Direct (Exhibit RT-1T) at 12.

Q. IN ADDITION TO THE ISSUES YOU HAVE IDENTIFIED THAT NEED TO BE ADDRESSED IN THE SELF-PROVISIONING ANALYSIS, ARE THERE ADDITIONAL ISSUES QWEST NEEDS TO ADDRESS IN ORDER TO SATISFY THE WHOLESALE TRIGGER?

A. Yes. A significant threshold issue is to ensure that Qwest is not overly broad in its identification of wholesale providers. Many carriers may provide some wholesale services, but may not be in a position to elect to offer the specific transport services necessary to satisfy the Wholesale Trigger. For example, a carrier may offer wholesale long distance voice services, and may also have established collocation arrangements for the self-provision of a data service for a specific retail customer. The fact that the carrier is a wholesale provider of an unrelated service is not relevant to the trigger analysis if the carrier is not offering wholesale services between specific ILEC wire centers.[24]

Q. IS THE REQUIREMENT OF OPERATIONAL READINESS THE SAME FOR THE WHOLESALE TRIGGER?

A. No. In addition to the requirements of the self-provisioning trigger, Qwest also must demonstrate that the wholesale provider is operationally ready and willing to provide transport to other carriers at each capacity level. At a minimum, Qwest must show that each wholesale provider:

[24] *See TRO*, ¶ 412, n. 1272.

- Has sufficient systems, methods and procedures for pre-ordering, ordering, provisioning, maintenance and repair, and billing;
- Possesses the ability to actually provision wholesale dedicated transport along the identified route;
- Is capable of providing transport at a comparable level of capacity, quality, and reliability as that provided by Qwest;
- Is collocated in each central office at the end point of each transport route;
- Has the ability to provide wholesale transport in reasonably foreseeable quantities, including having reasonable quantities of additional, currently installed capacity;
- Reasonably can be expected to provide wholesale transport capacity on a going-forward basis; and
- Can provide service in a commercially reasonable timeframe, because if it takes too long to receive service customers will not sign up with CLECs.

Q. WHAT DOES "WIDELY AVAILABLE" MEAN FOR THE WHOLESALE FACILITIES TRIGGERS?

A. To be widely available, service must be made available on a common carrier basis, for example, through a tariff or standard contract. An offer to negotiate an individualized private carriage contract does not constitute being widely available. In addition, each carrier identified as a wholesale provider must be able "immediately to provide" wholesale service.[25] This is one reason Ms. Torrence's capability assumption is faulty. If the carrier is required to construct facilities in order for the service to be made available, then the service is not widely available.

[25] 47 C.F.R. § 51.319(e).

Q. WHAT DOES IT MEAN TO HAVE REASONABLE ACCESS TO THE WHOLESALE PROVIDER?

A. One example is that requesting carriers have access to ILEC-provided cross-connects, whether to other CLEC collocations or to other forms of incumbent wholesale transport at nondiscriminatory rates, terms, and conditions in accordance with FCC and state commission rules. If carriers are not able to cross connect at the Qwest central office, then they cannot obtain access to the wholesale providers' facilities.

Similarly, functional and efficient systems and processes for ordering and provisioning and maintaining capacity must exist for the identified wholesaler. Without workable means to order and support services, the service is not of equivalent quality to Qwest's and reasonable access to the wholesaler does not truly exist. Furthermore, requesting carriers also must be able to order circuits to terminate in all qualified wholesale providers' collocation space without unreasonable limitations as to quantity or quality.

Q. WHAT ARE THE REMAINING STEPS?

A. Qwest then must demonstrate that particular carriers satisfy the trigger for the particular transport routes. Qwest 's evidence must differentiate among each capacity type and for each transport route.

The Commission must evaluate whether the carriers that Qwest has identified as satisfying a trigger for a transport route meet the FCC's qualifying criteria. It is AT&T's position that the Commission cannot classify any of the routes as meeting the wholesale trigger based on the evidence that Qwest has submitted.

VI. CRITIQUE OF QWEST WHOLESALE TRIGGER ANALYSES

Q. HAVE YOU REVIEWED QWEST 'S TESTIMONY CONCERNING THE APPLICATION OF THE WHOLESALE TRIGGER TO DEDICATED TRANSPORT ROUTES?

A. Yes, I have reviewed the testimony of Ms. Rachel Torrence.

Q. WHAT WERE THE CONCLUSIONS OF THE WHOLESALE TRIGGER ANALYSIS AS PROVIDED BY QWEST?

A. As I stated earlier, Qwest did not identify the routes based on what trigger it believed has been met. It identified 29 routes and then identified all carriers on the route it believed either were self-provisioning dedicated transport on the route or were providing dedicated transport at wholesale. However, based on a review of the 29 routes, Qwest has identified 2 or more wholesalers on the following routes: 1, 2, 5-11 and 14-29.

Q. PLEASE DESCRIBE QWEST'S PROCESS USED TO IDENTIFY DEDICATED TRANSPORT ROUTES IT BELIEVED MET THE WHOLESALE PROVISIONING TRIGGER.

A. Qwest used the same "connect the dots" approach to collecting data that I described above in my critique of the self-provisioning trigger and relied on the carriers' web sites. Accordingly, the approach to wholesale triggers suffers from the same defects in process, accuracy, reliability and completeness.

Q. DOES QWEST'S ANALYSIS OF THE WHOLESALE TRIGGERS FOR TRANSPORT SATISFY THE FCC REQUIREMENTS?

A. No. Qwest 's analysis of the wholesale trigger for transport incorporates all of the flaws of the self-provisioning analysis mentioned in Section IV. There are also several additional erroneous assumptions Qwest makes specific to the wholesale requirements, including (1) describing competitors as wholesale providers even though these carriers specifically stated in discovery that they do not provide wholesale transport in Washington; (2) basing its identification of wholesale providers primarily upon web site references; and (3) and listing routes despite a lack of evidence regarding the capacity levels available.

Q. PLEASE EXPLAIN HOW QWEST ERRONEOUSLY LABELED COMPETITIVE PROVIDERS AS WHOLESALE PROVIDERS OF TRANSPORT BETWEEN QWEST WIRE CENTERS?

A. My review of the carriers' discovery responses to the Commission showed B2, P4, P6, Y7 and Y3 specifically stated that they do not provide wholesale transport between ILEC wire centers.[26] The discovery responses submitted by these carriers show that they should not have been included on Qwest's list of wholesale transport providers. TCG also responded that it does not provide wholesale transport between ILEC wire centers that meets the FCC's trigger definition and should not be included on RT-9HC.[27] Based on statements made to AT&T, D1, J1 and Z6 also do not provide wholesale transport that meets the FCC's trigger definition.

Q. DID YOU REVIEW THE WEB PAGES QWEST RELIED ON?

A. Yes. I reviewed the pages Qwest sent AT&T in response to AT&T's data requests; and, in addition, I reviewed the web pages using the links identified on page 21 of Ms. Torrence's testimony.

AT&T asked a series of data requests for the 25 routes on Exhibit RT-9HC individually for each route and for every carrier identified on RT-9HC. AT&T asked Qwest to provide all documents in its possession that show that each carrier

[26] *See* **Exhibit AJG-3HC** for discovery responses of B2, P4, P6, Y7, and Y3.
[27] *See* **Exhibit AJG-4C** for discovery responses of TCG.

is operationally ready and willing to provide DS1, DS3 and dark fiber at wholesale on the route, and is making DS1, DS3 and dark fiber transport at wholesale widely available on the route. The only evidence Qwest provided is contained in Qwest's response to AT&T 03-203, along with the attached copies of web pages for Allegiance, AT&T, ELI, Level 3, MCI, AboveNet (formally MFN/MetroMedia, according to Qwest's notations), McLeod, Sprint, Williams Communications and XO.[28] The data request for each route asked essentially the same information (AT&T 03-204 through 03-287), and Qwest responded either with a reference to AT&T 03-203 (a) – (i), or answered that the carrier was omitted on Replacement RT-9HC. Therefore, the responses to AT&T's data requests are suppose to represent the entire bases for Qwest's assertions that the routes and carriers identified on the routes meet the wholesale trigger. After reviewing the attachments to AT&T 03-203, I reviewed each of the web pages at the links identified at page 12 of Ms. Torrence's testimony.[29]

[28] *See* **Exhibit AJG-5**
[29] *See* **Exhibit AJG-6** for the web pages identified on page 12 of Ms. Torrence's direct testimony. I only provide copies of the web pages that were not provided as part of AT&T 3-203.

Q. DO THE RESPONSE TO AT&T 03-203 AND THE WEB PAGES IDENTIFIED BY MS. TORRENCE PROVIDE ANY INFORMATION THAT CARRIERS PROVIDE DEDICATED TRANSPORT ON THE FIRST 25 ROUTES IDENTIFIED ON RT-9HC?

A. No. None of the web pages provide any evidence that the companies are operationally ready and willing to provide DS1, DS3, and dark fiber transport between *any* ILEC wire centers. None of the web pages, state that the companies even *offer* dedicated transport between Qwest's, or any ILEC's, wire centers.

As a result, one cannot possibly reach the conclusion by looking at the web pages that the companies make DS1, DS3 and dark fiber dedicated transport widely available between Qwest wire centers. The web pages do not provide any support that the carriers provide dedicated transport between Qwest wire centers on a wholesale basis.

Q. IS IT POSSIBLE FOR A CARRIER TO BE PROVIDING SERVICE TO ANOTHER CARRIER ON A GIVEN TRANSPORT ROUTE, BUT NOT BE CONSIDERED A WHOLESALE PROVIDER UNDER THE FCC TRIGGERS?

A. Yes. A key requirement under the FCC triggers is that the wholesale service be widely and generally available. Carriers occasionally will provide service to other carriers on an individual-case basis or based on unique circumstances. One such example would be capacity swapping agreements in which capacity is not

generally offered at wholesale but capacity on route A is provided by carrier 1 to carrier 2 in exchange for carrier 2's providing carrier 1 capacity on its route B. These types of individual contract-type arrangements cannot qualify for the wholesale trigger. Rather, the ILEC must demonstrate that service at or between the specific locations meets the FCC requirements that the service be widely available, and that requesting carriers have nondiscriminatory access to such arrangements.

Q. WHAT ARE THE IMPLICATIONS OF REMOVING CARRIERS FROM QWEST'S LIST OF WHOLESALERS?

A. When B2, P4, P6, D1, J1, Y3, Y7, Z6 and TCG are eliminated, the total number of *potentially* qualifying routes is significantly reduced to 5 (Routes 1-6, 9-13, and 16-29 are eliminated).[30] AT&T still has not received discovery responses from a number of CLECs. Those responses may reduce this number further.

Q. IS THIS ADJUSTMENT ALL THAT IS REQUIRED TO CORRECT QWEST'S APPROACH?

A. No, the above merely demonstrates the significant impact of correcting just one arbitrary assumption made by Qwest. As I stated in my analysis of the self-provisioning trigger analysis for transport, all of the routes Qwest identifies

[30] This count takes into account H5's response to AT&T's data request that it does not self-provision transport on any of the routes identified on Exhibit RT-9HC. *See* **Exhibit AJG-7HC** for discovery responses of H5.

cannot be used to support the triggers. That is, no showing is made that the transport routes met the FCC's requirements to be trigger candidates.

Q. BASED UPON YOUR REVIEW OF THE INFORMATION COLLECTED AND PROVIDED BY QWEST, HOW MANY TRANSPORT ROUTES SATISFY THE TRIGGERS?

A. Qwest has simply not made the showing necessary for the Commission to conclude that the triggers have been met for any of the locations it has identified. Accordingly, the Commission should not make a finding other than that impairment still exists for transport.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.