Exhibit T-___ (TLS-1T)
Docket No. UT-033044
Witness: Thomas L. Spinks

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

TESTIMONY OF

THOMAS L. SPINKS

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION STAFF

February 2, 2004

Q. Please state your name and business address.

A. My name is Thomas Spinks, my business address is 1300 South Evergreen Park Drive Southwest, P.O. Box 47250, Olympia, Washington 98504. My e-mail address is tspinks@wutc.wa.gov.

Q. By whom are you employed and in what capacity?

A. I am employed by the Washington Utilities and Transportation Commission as a Regulatory Consultant.

Q. What are your education and experience qualifications?

A. My qualifications are provided as Exhibit TLS-2.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide the Commission with Staff's analysis regarding (1) the proper definition of the relevant geographic and product markets, (2) whether the track one triggers are met, and (3) if they are not, whether an efficient CLEC can economically serve mass market customers in the geographic areas identified by Qwest.

Q. How is your testimony organized?

A. My testimony consists of three sections. First, I discuss Qwest's proposal to use Metropolitan Statistical Areas (MSAs) as the relevant geographic markets and I propose alternative market definitions. Second, I review the evidence as to whether the track one trigger conditions are met in each separate market. Finally, I discuss Staff's concerns about Qwest's economic model, which purports to show that an efficient CLEC can self-provision switching to serve the mass market in the Qwest proposed geographic areas.

The Geographic Market Area

Q. What geographic areas does Qwest propose to guide the Commission's impairment analysis regarding the mass market switching element?

A. Qwest proposes to use the Metropolitan Statistical Area (MSA) boundaries to define the relevant geographic area and product market for the mass market switching analysis. These areas would guide the analysis of whether the track one triggers are met for Seattle, Tacoma, and Vancouver, and whether the track two potential deployment test is met for Bellingham, Bremerton and Olympia.

Q. What are Staff's concerns with Qwest's MSA proposal?

A. Staff has two concerns with the way Qwest has defined the relevant markets. First, Staff disagrees with Qwest's proposal to use the MSA as the relevant geographic area. The MSA represents a logical area to begin consideration of the relevant geographic market area, but as a market definition, it needs further refinement. Second, Qwest did not consider the CLEC's ability to target and serve specific markets within the mass market in its definition of the relevant market.

Q. What criteria did the FCC direct states to use in defining the market area?

A. The TRO directs state commissions to define markets on a granular level, taking into consideration the locations of customers actually served by CLECs, the variation in factors affecting CLECs' ability to serve each group of customers, and the ability of CLECs to target and serve specific markets economically and efficiently using currently available technology. Markets should not be so narrowly defined as to ignore available economies of scale and scope and should attempt to distinguish among markets where different findings of impairment are likely. (TRO at ¶495)

Q. Why not use the MSA as the relevant market area?

A. MSAs encompass large geographic areas that contain very high density urban areas as well as very low density rural areas. These differences in density are likely to lead to differences in CLECs' ability to target and serve specific markets economically and efficiently, differences in switch sizes and their costs, and differences in the cost of backhaul and of serving customers. The FCC indicated that states should distinguish between markets where different findings of impairment are likely. (TRO at ¶495)

Q. How does Staff apply the FCC criteria to the Qwest proposed market area?

A. Staff uses the MSAs as the starting point for determining the market area, then modifies the area based on considerations that likely would lead to different findings of impairment**.** These considerations include the number of CLECs and CLEC lines in each wire center, the size of the switch and the total number of mass market lines in each wire center, the percent of lines served by integrated digital loop carrier (IDLC)[1] in each wire center, the geographic proximity of wire centers to each other and the geographic zone for determining the UNE loop

[1] The FCC explains that carriers use digital line carrier (DLC) systems to aggregate the many copper loops that terminate at a remote terminal location. These DLC systems may be integrated directly into the carrier's switch (i.e. IDLC) or not. (TRO at ¶217)

rate. Once the geographic boundaries are determined, Staff evaluates the CLEC ability to serve each group of customers and the CLEC ability to target and serve specific markets in each separate geographic market. The analysis relies on Qwest witness Mr. Reynolds' Exhibits MSR-4C, MSR-6HC, MSR-7HC and MSR-8 as well as Qwest's responses to Commission bench requests numbers 10, 11, 64 and 65. Staff has summarized the responses and includes the data as Ex. TLS-3HC under tabs "Sea.MSA," "Tac.MSA" and "Vanc.MSA." The exhibit also contains the CLEC responses to Commission Bench Requests 44 and 45 under tabs "BR#45" and "CLECdata." Data regarding switch size, UNE loop zones and other data are presented under the tab "Measures." Due to the highly confidential nature of the data, Staff will discuss the data in this testimony using terminology such as "minimal" or "substantial" in order to provide understanding without disclosing specifics.

Q. Where and to what degree are CLECs providing mass market services within the MSAs?

A. Many of the wire centers in the Seattle MSA are located in the densely populated area in and surrounding the Seattle metropolitan area. However, the Seattle MSA contains two wire centers, Black Diamond and Enumclaw, in which CLECs

serve no customer via UNE loops but do serve a small number of customers using UNE-P or resale. Both wire centers are distant from Seattle and serve a relatively small number of customers compared to those in the Seattle urban area.

There are four wire centers in the Seattle MSA where CLECs serve customers but provide fewer than 200 UNE loops in total. Those wire centers are Mercer Island, Des Moines, Maple Valley and Seattle-Patterson. In the Maple Valley and Mercer Island locations, CLECs also serve a minimal number of customers using UNE-P or resale. The remaining wire centers have a substantial CLEC presence in terms of customers served via UNE loops, UNE-P and resale.

In the Tacoma MSA, there are six wire centers where CLECs have no UNE loops and serve only a minimal number of customers via UNE-P and resale. They are Buckley, Bonney Lake, Crystal Mountain, Roy, Sumner and Tacoma-Fort Lewis. In the Tacoma-Logan, Tacoma-Lenox and Tacoma-Skyline wire centers, there are only two CLECs serving customers with UNE loops (and fewer than 200 UNE loops at that) but there are CLECs serving more than a minimal number of customers via UNE-P and resale.

In the Vancouver MSA, there are two wire centers where CLECs do not have any UNE loops. They are Ridgefield and Battleground. The Orchards and

Oxford wire centers have a substantial number of UNE loops indicating a strong CLEC presence while the Vancouver-North wire center has a somewhat weaker CLEC presence.

Q. How does the presence or absence of IDLC affect the CLECs' ability to serve each group of customers and CLECs' ability to target and serve specific markets economically and efficiently using currently available technology?

A. IDLC represents an impairment to CLECs because of the limitations in being able to provide line-splitting over lines served via IDLC. The ability to line-split is a requisite for CLECs to be able to provide a customer with internet and data services. Based on the Qwest response to Commission bench request 11, in the Seattle MSA, the Black Diamond and Issaquah wire centers have a significant proportion of lines served via IDLC. In the Tacoma MSA, the Tacoma-Fort Lewis wire center shows a high proportion of lines served via IDLC as does the Vancouver-North wire center in the Vancouver MSA. The inclusion of these wire centers in the relevant market is problematic because all potential CLEC revenues are considered in determining whether an efficient CLEC can economically serve a market area in the track two analysis. Qwest's track two analysis includes potential revenue from providing internet and data services

that require the line-splitting capability for a CLEC to provide and also includes wire centers where a large proportion of customers cannot be provided those services by CLECs.

Q. How do wire center sizes vary in the MSAs?

A. In the Seattle MSA, the Black Diamond and Enumclaw wire centers are small wire centers having fewer than 10,000 access lines, while Seattle-Main and Renton wire centers have more than 70,000 access lines. In the Tacoma MSA, the Buckley, Roy and Crystal Mountain wire centers are small wire centers, while the Bonney Lake, Sumner and Tacoma-Fort Lewis switches are mid-sized wire centers. In the Vancouver MSA, Battleground and Ridgefield are small wire centers.

Differences in the size of wire centers means it is likely that there are attendant differences in the operational and economic characteristics of the switches, which result in differences in potential costs and in customers that could be economically served by a CLEC.

Q. How do UNE loop zone rates vary throughout the MSAs?

A. In the Seattle MSA, Black Diamond, Enumclaw, Maple Valley and Issaquah are in zone 5, the highest cost UNE loop zone. In the Tacoma MSA, Bonney Lake, Buckley, Crystal Mountain, Graham, Roy and Tacoma-Fort Lewis are in zone 5. In the Vancouver MSA, the Vancouver-Orchards, Vancouver-North, Battleground and Ridgefield wire centers are in zone 5.

In zone 5 CLECs must pay $18.70 per month for UNE loops whereas zone 1 and 2 rates are $6.05 and $10.99 respectively. The zone 5 UNE rate represents a significant cost differential that would likely lead to a different finding of impairment given the Qwest $12.50 per month residential rate.

Q. What does Staff recommend with regard to Qwest's proposal to use the MSAs as the relevant markets for the mass market switching impairment analysis?

A. Staff recommends that the Commission exclude certain wire centers from Qwest's proposed market areas. The MSA proposal of Qwest does not appear to meet the criteria set out by the FCC in the TRO in that the MSAs combine areas where CLECs have very little or virtually no presence with areas where CLECs have a very strong presence which is most indicative of where they are actually serving customers. The MSAs also include wire centers with large differences in

size. One would expect different sized wire centers to have very different operational and economic characteristics that would affect a CLEC's ability to serve groups of customers or potential markets. Finally, the MSAs contain wire centers where the presence of a significant amount of IDLC presents an operational barrier affecting the ability of CLECs to target and serve specific customer groups.

Q. Which wire centers should be excluded from Qwest's defined market area?

A. In the Seattle MSA, Staff would exclude Black Diamond, Des Moines, Enumclaw, Federal Way, Issaquah, Kent-Meridian, Maple Valley and Mercer Island. As shown in Ex. TLS-3HC, under the tab "Measures", these wire centers have a combination of issues including having a zone 4 or 5 UNE rate, the small relatively small size, a lack of close proximity with the Seattle metropolitan area, a significant level of loops served with IDLC, and/or a lack of collocation and competitive activity. In the Tacoma MSA, Staff would also exclude Buckley, Crystal Mountain, Graham, Roy, Bonney Lake, Sumner and Tacoma-Fort Lewis because of their small size, their high zone 5 UNE loop rate, and the geographic distance from the core metropolitan area. In the Vancouver MSA, Staff would

exclude Vancouver-North, Ridgefield and Battleground because they are small wire centers in UNE rate zone 5.

Q. What is the geographic market area that emerges from this analysis?

A. There are three relevant geographic areas that emerge from the analysis: the Seattle and Tacoma metropolitan areas, and the downtown Vancouver area. The Seattle market area should consist of most of the wire centers between Qwest's northern Seattle exchange boundary extending to the east to Bellevue and running south through the valley area that includes Renton, Kent, and Auburn. The Tacoma market area should include Puyallup and the Tacoma wire centers except the Tacoma–Fort Lewis wire center. The Vancouver market area should include the Orchards and Vancouver-Oxford wire centers. A list of the wire centers that Staff would include in the metropolitan markets is provided as Exhibit TLS-4.

Q. Did Staff consider using the UNE rate zones to establish the relevant geographic markets for analysis?

A. Yes. Staff is aware that at least one state, Ohio, has adopted that approach and that other states are considering the approach. The use of that approach would

seem logical to examine in Washington but Staff believes that the current wire center zone assignments are badly outdated and no longer representative of the underlying costs. For example, the Renton wire center is a relatively high line density wire center with over 70,000 lines but is assigned to UNE rate zone 4. Staff is proposing a major restructure of the current UNE rate zone wire center assignments in the new generic proceeding, Docket UT-023003, and recommends that the Commission not use the current UNE rate zones in this proceeding to define the relevant market area.

Q. How should the Commission weigh the FCC's criteria of considering variation in the factors affecting CLECs' ability to target and serve specific markets economically and efficiently using currently available technology?

A. The FCC discusses this criteria in paragraph 495 of the TRO and provides clarification in footnote 1539. Footnote 1539 states "For example, competitors are often able to target particular sets of customers, or customers in particular wire centers or rate zones." There are two distinct market segments or "sets of customers" within the mass market in Washington. They are the business and residential segments which are distinguishable by the different levels of revenue they generate for their serving LECs. Another set of customers that is relevant to

this analysis is customers that are served over IDLC. What makes these sets of customers relevant is that their presence in a particular wire center can have a significant effect on whether a CLEC can economically serve that wire center using its own switch.

Q. Do CLEC data show that they are targeting particular sets of customers?

A. Yes, the responses to Commission bench request 45 show that many CLECs are not serving residential mass market customers but are serving one to three line business customers. In addition, Mr. Reynolds' Exhibit MSR-8 shows that only two CLECs hold themselves out to serve residential customers at a rate that is competitive with Qwest's $12.50 monthly local service rate. The remaining CLECs either target high-revenue residential customers with packages of service offerings or, like ATG, will serve residential customers only at the $26.60 monthly business rate.

Q. What is Qwest's view of whether CLECs are serving the mass market?

A. The testimony of Qwest witness Mr. Shooshan discusses the market in broad terms and does not include a granular analysis of the market areas proposed by Qwest. Qwest witness Mr. Reynolds states in his direct testimony that CLECs

are serving the mass market within the MSAs that Qwest defines as the relevant markets. Qwest has not directly addressed the question of what it means to be "actively providing voice service to mass market customers" (TRO at ¶499) in its initial testimony. However, the company implicitly answer this question by offering evidence that CLECs have self-provisioned switches and that that they provide service using UNE loops, even though the switches have as few as two UNE-L mass market loops and no switch has more than 500 UNE-L mass market loops. (See Exhibit MSR-6HC.) Without any further analysis, Qwest concludes that if a CLEC switch serves any mass market customers, that CLEC is counted toward meeting the trigger.

Q. What are the characteristics of the mass market in Washington?

A. The mass market is described by the FCC as consisting of residential customers and very small business customers who purchase ordinary switched voice service (Plain Old Telephone Service or POTS). (TRO at ¶127) Based on Qwest responses to Commission bench request 65 and AT&T 01-034, which shows business customers served with one to three DS0 lines, Staff calculates that roughly 95 percent of mass market customers in the Seattle, Tacoma and Vancouver MSAs are residential customers. The average revenue produced by

residential customers is **Highly Confidential [_____]** per month. The remaining approximately 5 percent of mass market customers are one to three line business customers producing average revenue of **Highly Confidential [_____]** per month.

Q. How do the CLEC customer revenues compare to the Qwest mass market customer revenues?

A. The bench request responses that Staff reviewed show that CLEC customer revenues are significantly higher than Qwest's mass market revenues, indicating that CLECs are targeting and serving a specific market consisting of high-revenue customers.

Q. How should the Commission account for CLEC's ability to target specific markets, such as high revenue customers, in defining the relevant market?

A. There a two ways the Commission can take into account the ability of CLECs to target and serve specific markets. It can either establish two separate markets based on the revenue threshold level that CLECs target, or it can divide the relevant markets into a residential market and a one to three line business market. Since the data submitted in this proceeding to date does not include

revenue information sufficient to conduct the triggers analysis using the revenue threshold approach, Staff will use the residential and business market approach in the trigger analysis. The residential/business distinction also has the advantage of being more workable from an administrative standpoint than would a customer revenue threshold. If the Commission were to find CLECs are impaired without UNE switching for the residential market, but that they are not impaired with respect to the business market, this could be translated into workable rules for competitors. It would not be difficult to determine, under those circumstances, whether a CLEC was ordering unbundled switching for a qualifying residential location as opposed to an unauthorized business location.

Q. Please summarize your testimony regarding the definition of the relevant market.

A. Staff has analyzed the Qwest-proposed MSA for defining the relevant market at a granular level and recommends the Commission reject that approach. Staff defines the relevant geographic market for the Seattle, Tacoma and Vancouver areas as shown in Exhibit TLS-4. Staff also recommends that the Commission further divide the relevant market within the geographic market areas into a market for residential customers and a market for one to three line business

customers. Staff would accept the default four DS0 line cutoff established by the FCC as the upper limit of the mass market areas defined by Staff. (TRO at ¶497)

THE TRACK ONE TRIGGERS ANALYSIS

Q. What is the track one trigger analysis?

A. The FCC states in the TRO that "where a state determines that there are three or more carriers, unaffiliated with either the incumbent LEC or each other, that are serving mass market customers in a particular market using self-provisioned switches, the state must find 'no impairment' in that market." (TRO at ¶462.) The FCC provides a second, alternative trigger for establishing that there is no impairment if the state determines there are two providers of wholesale switching in the market in addition to the ILEC. (TRO at ¶463) Because there is no evidence of such wholesale providers, I will focus only on the "self-provisioning" trigger.

Q. How should the Commission evaluate whether the track one trigger conditions are met?

A. The Commission should examine whether three CLECs offer and are actually providing service for the following markets:

The Seattle one to three line business mass market.

The Seattle residential mass market.

The Tacoma one to three line business mass market.

The Tacoma residential mass market.

The Vancouver one to three line business market.

The Vancouver residential market.

Q. Is the track one trigger met for any of these market areas?

A. Based on the information that has been provided by Qwest and CLECs in this proceeding to date, Staff does not believe the track one trigger is met for the Seattle, Tacoma and Vancouver residential mass market. Ex. MSR-8 shows that only two CLECs hold themselves out to provide residential POTS service and one of those offers service only in the Tacoma area. The data provided by CLECs in response to bench request 45 also show that only two CLECs offer service to residential customers in any of the market areas.

Based on responses to CLEC data request 45 and Mr. Reynolds' Ex. MSR-7HC, Staff believes the track one trigger is clearly met for the one to three line

business mass market in the Seattle, Tacoma and Vancouver market areas. In Seattle, at least three CLECs are serving mass market customers in 14 of the wire centers included in the Seattle market.

Q. If the Commission adopts Staff's market definition, what does Staff recommend with regard to whether Qwest meets the track one triggers test?

A. If the Commission accepts Staff's market definition, then Staff recommends a finding that the self-provisioning trigger is met in the one to three line business markets in the wire centers identified in Exhibit TLS-4. Staff's proposed market definition begins with the Qwest-proposed MSAs and pares out those wire centers that are likely to be relatively high-cost, low revenue, and that have a small number of lines and are therefore not properly included in the same market as the wire centers that comprise the commercial cores of each urban area. Staff also recommends removing the generally low-revenue residential market segment from the relevant geographic market. Because Staff's market definition eliminates the over-inclusiveness of Qwest's proposed geographic markets, Staff believes that the triggers test would result in a properly confined finding of non-impairment.

Q. Would your analysis change if Staff's mass market definition were expanded to include businesses served over four or more DS0 lines (as advocated by AT&T witness Mr. Finnegan)?

A. No. If the four to eleven line business customers were included in the analysis, the number of CLECs meeting the trigger would increase. Even without including those customers who demand a greater number of DS0 lines, the minimum of three CLECs is still met in the Seattle, Tacoma, and Vancouver one to three line business market.

Q. What is at stake in the way the commission decides to define the geographic market to which the triggers and potential entry analyses will apply?

A. The unbundled switching element, when combined with an unbundled loop, is referred to as the unbundled network element platform, or UNE-P. It is currently used by CLECs as a market entry strategy that provides a rapid and cost-effective way of gaining market share. The continued availability of the switching element, and therefore of the CLEC's widely used UNE-P market entry strategy is what is at stake in this proceeding. The triggers test is supposed to represent a "proof of the pudding" approach to determining whether competitors would be impaired without continued access to unbundled

switching from Qwest in particular markets. If those markets are defined in a way that is over-inclusive and lumps together groups of customers that have different characteristics, then a flawed, over-inclusive finding of non-impairment will result.

Q. What are the implications of applying the self-provisioned switch trigger to a geographic market that includes both business and residential mass market customers, as would be the case under Qwest's proposed geographic market definition?

A. It would result in a finding that CLECs in Washington are not impaired in serving the mass market without access to UNE-P, a finding that is perhaps appropriate with respect to the five percent of the mass market that is composed of business customers, but is clearly inappropriate for the remaining 95 percent that is composed of residential customers. The result of a finding that the triggers are met in a particular geographic market is that Qwest will no longer be required to provide unbundled switching in that market area and CLECs will be able to serve customers only by using their own switches. If residential customers are swept in with one to three line business customers in a single market definition, then a rigidly applied triggers test would result in the vast

majority of mass market customers in Washington not having competitive alternatives anytime in the near future, and perhaps never seeing an alternative unless future technological changes permit economic entry by CLECs into the mass market.

Q. What evidence does Staff rely on to conclude that it is uneconomic for CLECs to serve residential customers in Qwest's proposed geographic markets without continued access to unbundled switching from Qwest?

A. As discussed below, Qwest's own CPRO model makes the point. Because the economics of the residential market is different than that of the business market, the markets need to be separated for purposes of defining the relevant markets for the trigger analysis.

Q. How did Staff consider the Qwest evidence regarding the E-911 and White Pages listing studies?

A. The evidence provided in Mr. Reynolds' testimony regarding thousands of listings and records of residential customers in Washington not served by Qwest does not lead to the conclusion that the FCC's track one trigger criteria has been met in the markets proposed by Qwest. All that the existence of the records

indicates is that thousands of residential customers have found alternatives to Qwest service. Those alternatives likely include intermodal alternatives such as CATV as well as CLEC service via resale and UNE-P. In addition, Staff believes a distinction needs to be made between a CLEC that provides some residential customers with service as part of its packaged high-revenue services and the vast majority of residential mass market service that can only be served by a CLEC if it offers a residential service rate that is competitive with Qwest's residential rate.

Q. If the Commission adopts Qwest's geographic and product market definition, what does Staff recommend with regard to the track one triggers test?

A. If the Commission accepts Qwest's geographic and product market definition, then the Commission should consider a more demanding application of the self-provisioned switch triggers analysis. In other words, the Commission should require that Qwest provide evidence that competitors are serving both major segments of the mass market with their own switches—business *and* residential. If the Commission takes that approach, then Staff would contend that Qwest has not produced the evidence necessary for the Commission to find that the track one trigger has been satisfied. As such, Staff would, under this approach, recommend that the Commission reject the request for a track one finding of

non-impairment in the Seattle, Tacoma and Vancouver MSAs and proceed to the track two analysis to examine the operational barriers and economic feasibility of whether an efficient CLEC could serve the mass market.

Q. Which approach does Staff prefer?

A. Getting the market definition properly narrowed to begin with would be the better approach. In Staff's view, adopting a broad market definition but a more demanding trigger test would seem to depart from one of the FCC's main objectives—that is, to apply a granular, market-by-market analysis and to cease unbundling in those markets where it can be shown that CLECs would be unimpaired without continued access to the switching element. Markets that are over-inclusive present the decision maker with an all-or-nothing choice that is not necessary if the market is properly defined.

The Track Two Impairment Analysis

Q. What is the track two impairment analysis?

A. The second track is an analysis of the potential deployment of CLEC switches to serve the mass market. The FCC describes the analysis generally as consisting of an evaluation of whether CLECs are using their own switches currently to serve

the enterprise market (albeit not a sufficient number to satisfy the triggers), whether there are potential operational barriers, and whether there are potential economic barriers associated with serving the mass market using self-provisioned switching. (TRO at ¶507)

Q. What potential operational barriers should be examined by the Commission?

A. The FCC states that "state commissions should examine whether incumbent LEC performance in provisioning loops, difficulties in obtaining collocation space or delays in provisioning by the incumbent LEC, and difficulties in obtaining cross-connects in an incumbents' wire center are making entry uneconomic for competitive LECs." (TRO at ¶511)

Q. What evidence does Qwest provide to support a lack of potential operational impairment?

A. The testimony of Mr. Pappas discusses potential operational impairments caused by collocation availability and CLEC to CLEC cross-connects. Exhibits DLP-3 and DLP-4 show that on both a region-wide basis and in Washington, Qwest meets or exceeds the collocation performance standards which were determined in the Section 271 process.

Q. How has Qwest performed in loop provisioning in Washington?

A. The monthly Qwest Performance Assurance Plan (QPAP) reports filed with this Commission each month show that Qwest has made payments to CLECs and/or the state in every month in 2003 with few exceptions for the Installation Commitments Met, Installation Interval and New Service installation performance measures. On the other hand, Qwest has made payment on the Coordinated Cuts on Time measure in only one month during 2003. This performance will need to be considered as the Commission works through the coordinated hot-cut issues later in this proceeding.

Q. What evidence does Qwest provide regarding the potential for CLECs to use existing enterprise switches to serve the mass market?

A. The testimony of Peter Copeland presents an analysis using a CLEC profitability model (CPRO) that Mr. Copeland asserts shows that a CLEC could profitably enter the six markets where Qwest asks for relief from its obligation to provide unbundled switching. The CPRO is said to calculate the net present value of an efficient CLEC's profits if it were to serve the mass market. Table 1 of Mr.

Copeland's testimony shows that a positive net present value would be realized under the various assumptions used in the model.

Q. What are Staff's concerns with the CPRO model?

A. Staff has concerns with the average revenues used in the model for residential and business customers and the inclusion of all the wire centers in the MSA in the model.

Q. What is the concern with the revenue levels used in the model?

A. Staff does not believe that the revenue levels used in the calculation of net present value are representative of the revenues a CLEC could reasonably expect to receive if it were to serve the mass market without discriminating against all but the highest revenue customers. Mr. Copeland explains that revenues are developed based on existing CLEC plans, in particular, The Neighborhood and Business Complete plans of MCI. (Ex. PBC-1T, p.24) As an initial matter, despite the FCC's admonition that the analysis was not be based on any particular carrier's business plan, Qwest chooses to rely on MCI's business service packages for determining revenue levels to be used in the analysis. (TRO at ¶517) Second, in discussing the potential revenues to be used in the analysis, the FCC states

that the state commission must consider all revenues that will derive from service to the mass market and must ensure that a facility-based competitor could economically serve all customers in the market before finding no impairment. (TRO at ¶519) If one wanted to know what the level of expected revenue is from serving all customers in the mass market, such information is already available from Qwest itself who is already serving the mass market in Washington.

Q. What is Staff's concern with including all MSA wire centers in the model?

A. Staff does not believe that the MSA represents the appropriate definition of the market for reasons discussed earlier in this testimony. Using all the wire centers in the MSA may mask areas that would not be profitable for CLECs to serve with areas of true CLEC profitability. In addition, Staff was not able to alter the model to test whether a CLEC could profitably serve a single market area. Hence, Staff cannot state with certainty whether the track two trigger test would be met for the Bremerton, Olympia or Bellingham areas on a stand-alone basis.

Q. Has Staff conducted any analysis to test whether an efficient CLEC can economically serve the mass market as a whole as opposed to just the highest revenue segment of the mass market?

A. Staff used Qwest's CPRO business case model to test whether an efficient CLEC could economically serve both business and residential segments of the mass market by substituting the revenues Qwest uses in the model with the average revenue produced by Qwest's mass market residential and business customers. No other values, inputs or assumptions were altered. The result showed that an efficient CLEC could not economically serve the average mass market customer in the Qwest-proposed MSAs if the CLEC were required to provision its own switch.

Q. Please summarize Staff's testimony regarding CLEC's ability to serve the mass market without continued access to unbundled switching.

A. The track one trigger appears to be met in all three market areas for one to three line business customers in the geographic markets proposed by Staff. Staff recommends that the Commission reject Qwest's approach which fails to distinguish between residential and business segments of the mass market. Staff has several concerns with the Qwest CPRO model as discussed earlier and finds

that when average mass market revenues produced by Qwest's own mass market customers are used in the model, an efficient CLEC cannot profitably serve the mass market without discrimination, using self-provisioned switches.

Q. Does this conclude your testimony?

A. Yes.