

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Petition for Arbitration of
an Interconnection Agreement Between
CHARTER FIBERLINK WA-CCVII, LLC.
and QWEST CORPORATION Pursuant to 47
U.S.C. Section 252 (b)**

DOCKET NO. UT-083041

REBUTTAL TESTIMONY OF WILLIAM R. EASTON

QWEST CORPORATION

(Disputed Issue Nos. 10, 11, 13, 14, 15, 16 and 18)

NOVEMBER 17, 2008

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1

I. IDENTIFICATION OF WITNESS

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS**
3 **ADDRESS.**

4 A. My name is William R. Easton. My business address is 1600 7th Avenue, Seattle
5 Washington. I am employed as Director – Wholesale Advocacy. I am testifying on
6 behalf of Qwest Corporation (“Qwest”).

7 **Q. ARE YOU THE SAME WILLIAM EASTON WHO FILED DIRECT**
8 **TESTIMONY IN THIS DOCKET?**

9 A. Yes.

10

II. PURPOSE OF TESTIMONY

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. The purpose of my testimony is to respond to the Charter Fiberlink WA-CCVII,
13 LLC (“Charter”) testimony of Mr. Gates. Specifically I reply to Mr. Gates’
14 testimony as it relates to the following disputed issues:

- 15 ▪ Issue 10: Interconnection Facility Options
- 16 ▪ Issue 11: Methods of Interconnection
- 17 ▪ Issue 13: Transport Obligations
- 18 ▪ Issue 14: Non-Recurring Charges for Trunks
- 19 ▪ Issue 15: Bill and Keep Compensation
- 20 ▪ Issue 16: Indirect Interconnection
- 21 ▪ Issue 18: Rates for 911 Facilities

1 Before discussing Mr. Gates' testimony on these specific issues I would like to
2 address a general concern expressed by Mr. Gates in the introduction to his
3 testimony. That is his claim on pages 6 and 7 that Qwest's interconnection
4 proposals would require Charter to build additional facilities and lessen network
5 efficiencies and quality of service. Despite Mr. Gates' promise to explain these
6 claims in greater detail later in his testimony, he never does offer a detailed
7 description of the problems the Qwest proposals would allegedly cause. As I
8 explained in my direct testimony, Qwest is offering Charter a range of
9 interconnection options and terms consistent with the options and terms provided to
10 other carriers and consistent with the options and terms that were developed during
11 the 271 proceedings. Mr. Gates offers no compelling reason why these options and
12 terms are not sufficient for Charter.

13 **III. DISPUTED ISSUE NO. 10: INTERCONNECTION FACILITY OPTIONS**

14 **Q. AT PAGE 9 OF HIS TESTIMONY MR. GATES ARGUES THAT FCC**
15 **RULES ON INTERCONNECTION DO NOT ALLOW AN INCUMBENT**
16 **LOCAL EXCHANGE CARRIER ("ILEC") TO DENY A REQUEST FOR**
17 **INTERCONNECTION BASED "SOLELY ON THE ILEC'S BELIEF THAT**
18 **IT CAN MAKE A SHOWING OF TECHNICAL INFEASIBILITY." DO**
19 **YOU AGREE?**

20 A. No. Mr. Gates is apparently referring to FCC Rule 51.305(e)¹ which states:

21 (e) An incumbent LEC that denies a request for interconnection at a
22 particular point must prove to the state commission that interconnection at
23 that point is not technically feasible.

¹ 47 CFR §51.305(e)

1 The FCC rules do not state that an incumbent cannot deny a request, but rather that
2 if a request is denied, the ILEC must be able to prove to a state commission that the
3 interconnection proposal is not technically feasible. Under the FCC rule, the order
4 of events is clearly spelled out: first the request must be denied and then proof of
5 technical feasibility is made. Charter's proposed language, which would only allow
6 Qwest to deny interconnection at a particular point after it had demonstrated
7 technical infeasibility to a state commission, inappropriately reverses the order of
8 events. Qwest acknowledges that Charter may dispute Qwest's claims of technical
9 infeasibility or switch exhaust. However, the logical order of events, and the order
10 that is consistent with rule 51.305(e), is for Charter to request an interconnection
11 point or switch connection, for Qwest to determine whether to accept or reject the
12 request, and for any dispute to be negotiated and/or submitted to the Commission
13 for resolution pursuant to the dispute resolution provisions of the ICA. The Qwest
14 proposed language provides for just such a sequencing of events.

15 **Q. WHY IS THIS ORDER OF EVENTS PREFERABLE TO THE ORDER**
16 **REQUIRED BY THE CHARTER LANGUAGE?**

17 A. Charter's proposed language unnecessarily involves the Commission in the
18 management of Qwest's network. As I noted in my direct testimony, Qwest has the
19 right and responsibility to monitor, engineer and manage its network and is in the
20 best position to make the first determination whether an interconnection point or
21 connection between switches is technically feasible. If Qwest and Charter cannot
22 resolve any dispute through negotiations, either party can then request that the
23 Commission resolve the dispute. There is no reason to involve the Commission
24 prior to the point of a dispute. As I also noted in my direct testimony, in the past

1 interconnecting parties have been able to resolve tandem exhaust issues when they
2 have arisen. Charter's insertion of additional requirements is simply not necessary.

3 **IV. DISPUTED ISSUE NO. 11: METHODS OF INTERCONNECTION**

4 **Q. ON PAGE 18 OF HIS TESTIMONY MR. GATES CLAIMS THAT**
5 **“CHARTER’S LANGUAGE IS IN ABSOLUTE ALIGNMENT WITH**
6 **FEDERAL LAW BECAUSE IT EXPRESSLY ALLOWS *CHARTER* TO**
7 **DECIDE WHETHER ONE OR MORE POI(S) WILL BE ESTABLISHED**
8 **PER LATA” AND THAT “QWEST’S LANGUAGE DOES NOT GRANT**
9 **CHARTER THE DISCRETION TO MAKE THIS DECISION.” DOES THE**
10 **QWEST LANGUAGE DENY CHARTER THE RIGHT TO DECIDE**
11 **WHETHER TO ESTABLISH ONE OR MORE POIS PER LATA?**

12 A. No. The second sentence of Qwest's proposed language for Section 7.1.2 states:

13 CLEC shall establish at least one (1) physical Point of Interconnection in
14 Qwest territory in each LATA CLEC has local End User Customers.

15 This language clearly gives Charter the right to establish one or more POIs per
16 LATA. Given this language, Mr. Gates' repeated assertions that Qwest is refusing
17 to give Charter the option to establish one or more POIs per LATA are incorrect.

18 **Q. ON PAGE 18 OF HIS TESTIMONY MR. GATES ARGUES THAT,**
19 **“QWEST PROPOSES THAT CHARTER SHOULD ONLY BE ALLOWED**
20 **TO USE A QWEST PROVIDED ENTRANCE (INTERCONNECTION)**
21 **FACILITY.” IS THAT THE ONLY OPTION THAT THE LANGUAGE**
22 **PROVIDES?**

1 A. No. As Mr. Linse described in his direct testimony, the Qwest language in Section
2 7.1.2 allows for the use of a Qwest provisioned entrance facility or, if Charter
3 wishes to build its own facility, it can use the collocation option to interconnect
4 with Qwest. Charter also has the option to use the Mid Span Meet POI option
5 whereby each party builds its own facility to a negotiated meet point. Finally, the
6 Qwest language provides for a Bona Fide Request process which allows for other
7 technically feasible methods of interconnection.

8 **Q. DOES QWEST’S PROPOSED LANGUAGE ALLOW FOR THE USE OF A**
9 **THIRD PARTY’S TRANSPORT FACILITIES?**

10 A. Yes. The Qwest proposed language for Section 7.2.2.1.2.2 allows a CLEC to
11 purchase transport services from a third party, including a third party that has leased
12 the private line transport service facility from Qwest. As was discussed in my
13 direct testimony, what the Qwest language does not allow is for Charter to use an
14 entrance facility that a third party has purchased from Qwest. Under the FCC’s
15 *Triennial Review Remand Order*², other CLECs and third parties are not entitled to
16 obtain entrance facilities as unbundled network elements (“UNEs”) and thus, are
17 not entitled to use entrance facilities they have obtained from Qwest to provide
18 transport for Charter. Under the proposed Charter language, Charter would
19 inappropriately be allowed to use entrance facilities that a third party has purchased
20 from Qwest. Although Mr. Gates argues that the use of a third party entrance
21 facility is “technically feasible,” he does not address the fact that such usage is not
22 permissible under FCC rules.

² Order on Remand, *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 20 FCC Rcd 2533, ¶¶136-141 (Rel. Feb. 4, 2005)(“*Triennial Review Remand Order*”)(subsequent history omitted).

1 **Q. ON PAGE 18 MR. GATES ARGUES THAT QWEST’S PROPOSALS**
2 **WOULD PRECLUDE CERTAIN TECHNICALLY FEASIBLE METHODS**
3 **OF INTERCONNECTION. DO YOU AGREE?**

4 A. No. The Qwest language is designed to allow for all technically feasible methods
5 of interconnection. In addition to specific interconnection options of a Qwest
6 provided Entrance Facility, Collocation and Mid Span Meet POI, the Qwest
7 language provides for a Bona Fide Request process which allows for other
8 technically feasible methods of interconnection.

9 **Q. ON PAGE 19 OF HIS TESTIMONY MR. GATES CRITICIZES QWEST’S**
10 **DEFINITION OF ‘LIS ENTRANCE FACILITY’ CLAIMING IT ‘LIMITS**
11 **THE FACILITY THAT CONNECTS THE PARTIES’ RESPECTIVE**
12 **SWITCHES TO A QWEST PROVIDED FACILITY.’ PLEASE**
13 **COMMENT.**

14 A. Qwest’s LIS Entrance Facility is a Qwest provided facility. However, as was just
15 discussed, an Entrance Facility is just one of the interconnection options available
16 for Charter, including self provisioned facilities and the use of a third party’s
17 facilities. Mr. Gates claims that Charter’s proposed definition tracks the FCC’s
18 orders and quotes from paragraph 366 of the FCC’s *Triennial Review Order*.³ Yet
19 in paragraph 366 of the order, the FCC is talking about unbundling requirements of
20 ILECs, and is therefore, consistent with Qwest’s Entrance Facility definition,
21 addressing facilities provided by ILECs, not third parties. Interestingly, it is in this
22 same paragraph that the FCC concludes that these ILEC provided facilities need not

³ Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 18 FCC Rcd 16978, ¶366 (August 21, 2003)(“*Triennial Review Order*”)(subsequent history omitted).

1 be offered on an unbundled basis, a conclusion that the FCC reaffirmed in its
2 *Triennial Review Remand Order* as discussed above. Thus, CLECs are not entitled
3 to use Entrance Facilities they have obtained from Qwest to provide transport for
4 Charter because such usage would constitute impermissible unbundling.

5 **Q. ON PAGES 20-23 MR. GATES DISCUSSES CHARTER'S NEED AND**
6 **RIGHT TO HAVE THE FLEXIBILITY TO ESTABLISH SINGLE OR**
7 **MULTIPLE POIS PER LATA AND DESCRIBES THE IMPACT UPON**
8 **CHARTER IF THIS COMMISSION ALLOWED QWEST TO DICTATE**
9 **MULTIPLE POIS IN A LATA. IS THERE ANY QWEST LANGUAGE**
10 **THAT REQUIRES CHARTER TO HAVE MULTIPLE POIS IN A LATA?**

11 A. No. I previously cited the Section 7.1.2 language which allows Charter to establish
12 at least one point of interconnection per LATA. Mr. Gates fails to explain how the
13 Qwest language allows Qwest to dictate multiple POIs per LATA. Under the
14 Qwest language, it is Charter who decides the number and location of POIs.

15 **Q. ON PAGE 24 OF HIS TESTIMONY MR. GATES CHARGES THAT**
16 **QWEST COULD IMPROPERLY SHIFT COSTS TO ITS COMPETITORS**
17 **BY FORCING CLECS TO USE MULTIPLE POIS IN A LATA. PLEASE**
18 **COMMENT.**

19 A. Despite Mr. Gates' repeated assertions that Qwest is forcing Charter to use multiple
20 POIs he fails to explain how the Qwest language forces the use of multiple POIs.
21 He also fails to explain how the Qwest interconnection options provide for the
22 improper shifting of costs to Charter. The Qwest language offers Charter a number
23 of different interconnection options and is entirely consistent with the
24 interconnection options developed during the 271 process that are employed by all
25 other CLECs in the state.

1 **Q. HAS QWEST ASKED CHARTER IN A DATA REQUEST TO DESCRIBE**
2 **SPECIFIC LANGUAGE THAT WOULD REQUIRE COST SHIFTING?**

3 A. Yes. Attached, as Exhibit WRE-3, is a copy of the Qwest data request and the
4 Charter response. In its response Charter cites three sections of Qwest language:
5 Sections 7.1.2, 7.1.2.3 and 7.3.2. Charter argues that Qwest's proposed language in
6 Section 7.1.2 could require Charter to establish more than one POI per LATA. As
7 discussed previously, Charter ignores the fact that it is Charter, not Qwest, who
8 determines the number and location of the POI or POIs. Charter's cite of the
9 Section 7.1.2.3 language, which requires that the Mid Span Meet POI be "within"
10 Qwest's network, is surprising since this is language that the parties have agreed to
11 and is not at dispute in this arbitration. In addition, the limitation that Charter
12 interconnect at a point "within" Qwest's network is a requirement of FCC rule
13 51.305(a)(2) which requires that interconnection be provided "at any technically
14 feasible point *within* the incumbent LEC's Network..." (Emphasis added).⁴
15 Finally, it is difficult to see how section 7.3.2, which is related to the purchase of
16 Direct Trunked Transport, provides for any shifting of costs since the Relative Use
17 Factor that Qwest proposes in Section 7.3.2.2.1 would split the cost of the shared
18 facility based on the proportion of each party's originated traffic. As Mr. Gates
19 himself acknowledges on page 20 of his testimony, per FCC rules "each carrier is
20 responsible for the costs of delivering its traffic to other carriers for termination."

21 **Q. ON PAGES 25-27 MR. GATES DISCUSSES THE COMPETITIVE**
22 **IMPORTANCE OF ALLOWING CHARTER TO ESTABLISH A SINGLE**
23 **POI PER LATA, QWEST'S ALLEGED INCENTIVE TO REQUIRE**
24 **MULTIPLE POIS AND THE NETWORK AND MARKET ENTRY**

⁴ 47 CFR §51.305(a)(2)

1 **EFFICIENCIES A SINGLE POI PROVIDES. ARE ANY OF THESE**
2 **POINTS RELEVANT TO ISSUE NO. 11?**

3 A. No. All of these arguments falsely assume that the Qwest language allows Qwest
4 to dictate the location and number of POIs. Mr. Gates writes at length about the
5 dangers of allowing Qwest to dictate the location and number of POIs but again
6 fails to demonstrate how the Qwest language brings about this result.

7 **Q. IN THE INTRODUCTION TO YOUR TESTIMONY YOU NOTED THAT**
8 **MR. GATES ARGUES THAT QWEST’S PROPOSED LANGUAGE**
9 **WOULD REQUIRE CHARTER TO BUILD ADDITIONAL FACILITIES.**
10 **HAS QWEST ASKED CHARTER IN A DATA REQUEST TO DESCRIBE**
11 **THE ADDITIONAL FACILITITES THAT WOULD BE REQUIRED AND**
12 **THE LANGUAGE THAT REQUIRES SUCH FACILITIES?**

13 A. Yes. Attached, as Exhibit WRE-4, is a copy of the Qwest data request and the
14 Charter response. Charter cites two sections of language which it claims could
15 require Charter to build additional facilities: Sections 7.1.2 and 7.1.2.3. Charter
16 argues that Qwest’s proposed language in Section 7.1.2 could require Charter to
17 establish more than one POI per LATA, again ignoring the fact that the location and
18 number of POIs are determined by Charter, not by Qwest. Charter also cites the
19 language in Section 7.1.2.3 which requires that the Mid Span Meet POI be “within”
20 Qwest’s network, arguing that this language could force Charter to build additional
21 facilities from its preferred meet point location to a specific wire center. As I
22 discussed previously, this language is not at dispute in this arbitration and is based
23 upon FCC rules.

24 **Q. PLEASE SUMMARIZE QWEST’S POSITION ON ISSUE NO. 11.**

1 A. The interconnection options made available in the Qwest proposed language are
2 consistent with the interconnection options developed during the 271 proceedings
3 and used by all other carriers in the state of Washington. The Qwest language
4 allows for all technically feasible interconnection options that are consistent with
5 FCC rules. Mr. Gates fails to explain why these interconnection options are not
6 appropriate for Charter. Mr. Gates' claims about Qwest dictation of multiple POIs
7 and shifting of costs are belied by the fact that the Qwest language provides for
8 Charter to select both the location and number of POIs. For these reasons, the
9 Charter language should be rejected.

10 **V. DISPUTED ISSUE NO. 13: TRANSPORT OBLIGATIONS**

11 **Q. IN HIS DESCRIPTION OF THIS ISSUE ON PAGES 3-4 OF HIS**
12 **TESTIMONY MR. GATES QUESTIONS WHETHER CHARTER SHOULD**
13 **COMPENSATE QWEST FOR DIRECT TRUNKED TRANSPORT WHEN**
14 **CHARTER HAS ALREADY COMPENSATED QWEST UNDER A BILL**
15 **AND KEEP ARRANGEMENT. IS QWEST COMPENSATED FOR THIS**
16 **TRANSPORT UNDER A BILL AND KEEP ARRANGEMENT?**

17 A. No. Under the bill and keep arrangement proposed by Qwest, bill and keep would
18 apply for usage-based charges (i.e. termination, tandem transmission and tandem
19 switching) but not for the dedicated transport (i.e. DTT) between the Qwest and
20 Charter networks. As a result Qwest would be denied the compensation that the

1 FCC has determined that an ILEC is entitled to for the costs incurred to provide
2 interconnection.⁵

3 **Q. DOES MR. GATES CORRECTLY DESCRIBE QWEST’S BILL AND KEEP**
4 **PROPOSAL ON PAGE 39 OF HIS TESTIMONY?**

5 A. No. Mr. Gates mistakenly describes Qwest’s bill and keep proposal as excluding
6 tandem switching and transmission. As I stated above, Qwest’s bill and keep
7 proposal would apply for usage-based charges including tandem transmission and
8 tandem switching as well as termination but would not include dedicated transport
9 (i.e. DTT) between the Qwest and Charter networks.

10 **Q. DO YOU AGREE WITH MR. GATES’ STATEMENT ON PAGE 38 THAT,**
11 **“SINCE THE PARTIES EXPECT THAT THE VOLUME OF TRAFFIC**
12 **WILL BE ROUGHLY BALANCED, THE PARTIES’ RESPECTIVE COST**
13 **OF TRANSPORTING AND TERMINATING THE OTHER PARTY’S**
14 **TRAFFIC SHOULD BE ROUGHLY BALANCED?”**

15 A. No. The fact that the volume of traffic may be balanced does not mean that the
16 parties have each provided the same amount of facilities to exchange the traffic.
17 Because Charter has the right to choose the POI, it has the ability to control how
18 much transport it must provide and the ability to shift transport costs to Qwest.
19 Because Qwest does not select the location of the POI, Qwest does not have this
20 same option. For these reasons Qwest is not willing to include dedicated transport
21 in its bill and keep proposal.

22 **Q. PLEASE EXPLAIN HOW CHARTER’S SELECTION OF THE POI**

⁵ First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rec. 15499, ¶200 (August 8, 1996) (the “*Local Competition Order*”), *aff’d in part and rev’d in part, Iowa Utils. Bd. v. FCC*, 525 U.S. 1133 (1999).

1 **IMPACTS HOW MUCH TRANSPORT QWEST MUST PROVIDE ON ITS**
2 **SIDE OF THE POI?**

3 A. Charter has the ability to shift transport costs to Qwest because Charter can choose
4 to have its POI close to its switch, which will limit the amount of transport required
5 to get from its switch to the POI. The effect of such a choice is to require additional
6 transport on the Qwest side of the POI in order for Charter customers to be able to
7 place local calls to Qwest end users. For example, Charter currently has a POI with
8 Qwest in Yakima. The distance from Charter's switch to the POI is approximately
9 71.4 miles. If this is the only POI that Charter establishes, in order for a Charter
10 customer in Spokane to call a Qwest customer in Spokane, transport must be
11 provided from Charter's POI in Yakima to Qwest's Spokane tandem switch and
12 from the tandem switch to the Qwest Spokane end office which subtends the
13 Spokane tandem. Using Mr. Linse's Exhibit PL-9, a Charter customer in Spokane
14 making a local call to a Qwest customer in Loon Lake would require 196.8 miles of
15 transport on the Qwest side of the POI (167.8 miles to the Qwest Spokane tandem
16 and an additional 29.4 miles to the Loon Lake end office). Yet under the Charter
17 proposal, Qwest would bear the full cost of providing this transport for Charter
18 originated calls, even though it is the Charter selection of the POI that determines
19 how much transport it necessary.

20 **Q. IS MR. GATES CORRECT ON PAGE 40 OF HIS TESTIMONY WHEN HE**
21 **STATES THAT "FEDERAL LAW DOESN'T PERMIT QWEST TO**
22 **INVOICE CHARTER AN ADDITIONAL TRANSPORT CHARGE ON**
23 **QWEST'S SIDE OF THE POI?"**

1 A. No. Mr. Gates fails to cite the federal law that he is referring to. However, Mr.
2 Gates' own testimony at page 37 quotes the FCC in its *2005 Inter-carrier*
3 *Compensation FNPRM* as stating:

4 Specifically our rules permit recovery of the costs of transport and
5 termination of telecommunications traffic between LECs and other
6 telecommunications carriers.⁶

7 Clearly the FCC's reciprocal compensation rules require compensation for both
8 transport and termination. Mr. Gates' claim that federal law does not permit Qwest
9 to invoice charter for transport on the Qwest side of the POI is simply false.

10 **Q. ON PAGE 41 MR. GATES STATES THAT THAT QWEST'S BILL AND**
11 **KEEP PROPOSAL ALLOWS QWEST, BUT NOT CHARTER, TO**
12 **RECOVER THE COSTS OF TRANSPORT. PLEASE COMMENT.**

13 A. As I discussed above, because Charter has the right to choose the POI, it has the
14 ability to control how much transport it must provide, an option not afforded to
15 Qwest. Mr. Gates acknowledges the relationship between selected POI locations
16 and transport costs on page 41 of his testimony when he states:

17 Though a single POI per LATA provides network efficiencies and allows
18 Charter (and Qwest) to reduce its costs of network interconnection, such
19 efficiencies also require Charter to transport Qwest-originated traffic on its
20 side of the POI. Further, a single POI may involve more transport than a
21 multiple POI scenario, given that a single POI trades off costs of
22 establishing and maintaining additional points of interconnection with
23 more transport to connect various network locations.

24 Thus, it is Charter, through its ability to select a POI(s), who controls its transport
25 costs. Mr. Gates agrees that a single POI may increase transport costs. What he

⁶ Further Notice of Proposed Rulemaking, *In the Matter of Developing a Unified Inter-carrier Compensation Regime*, 20 FCC Rcd 4685, ¶87 fn. 278 (March 3, 2005) ("2005 Inter-carrier Compensation FNPRM").

1 fails to mention is Charter's ability and incentive to shift these increased transport
2 costs to Qwest.

3 **Q. ON PAGES 42 AND 43 MR. GATES DISCUSSES ALLOWING CHARTER**
4 **TO ASSESS TANDEM SWITCHING RATES UPON QWEST. IS THAT AN**
5 **ISSUE IN THIS PROCEEDING?**

6 A. No. Both of the parties' bill and keep proposals treat tandem switching and
7 transmission on a bill and keep basis and thus neither party would pay the other
8 party tandem rates.

9 **VI. DISPUTED ISSUE NO. 14: NON-RECURRING CHARGES FOR TRUNKS**

10 **Q. ON PAGE 44 MR. GATES STATES, "TRUNK INSTALLATION AND**
11 **REARRANGEMENTS ARE PART OF THE PROCESS OF**
12 **ESTABLISHING A POI AND PER THE AUTHORITIES DISCUSSED**
13 **ABOVE, QWEST (AND CHARTER) SHOULD BE RESPONSIBLE FOR**
14 **ALL COSTS ON ITS SIDE OF THE POI, INCLUDING NON-RECURRING**
15 **COSTS ASSOCIATED WITH TRUNK INSTALLATION ACTIVITIES."**
16 **DO YOU AGREE?**

17 A. No. Mr. Gates again fails to cite just which authority he is referring to. None of the
18 authorities cited in Mr. Gates testimony state that each party is responsible for all
19 costs on its side of the POI. In fact in the *Local Competition Order* I cited
20 previously, the FCC concluded that ILECs are entitled to compensation for the
21 costs incurred to provide interconnection.⁷ This would include compensation for

⁷ First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rec. 15499, ¶200, (August 8, 1996) (the "*Local Competition Order*"), *aff'd in part and rev'd in part, Iowa Utils. Bd. v. FCC*, 525 U.S. 1133 (1999).

1 establishing and rearranging interconnection trunks which is the subject of Issue
2 No. 14. Charter's proposed language wrongly denies Qwest this compensation and
3 should be rejected.

4 **VII. DISPUTED ISSUE NO. 15: BILL AND KEEP COMPENSATION**

5 **Q. ON PAGE 50 OF HIS TESTIMONY MR. GATES CRITICIZES QWEST'S**
6 **BILL AND KEEP PROPOSAL BECAUSE IT DOES NOT PROVIDE**
7 **CHARTER AN OPPORTUNITY TO RECOVER ITS COST OF**
8 **TRANSPORT FROM QWEST. PLEASE COMMENT.**

9 A. First, as I have already stated, Mr. Gates mischaracterizes the Qwest bill and keep
10 proposal. Qwest's bill and keep proposal does include shared transport (i.e. tandem
11 transport and tandem transmission), but does not include dedicated transport. As
12 discussed in my direct testimony, Qwest's proposal to not treat dedicated transport
13 on a bill and keep basis is consistent with the FCC's definition of bill and keep as
14 arrangements "in which neither of the two interconnecting carriers charges the other
15 for *termination* of telecommunications traffic..." (Emphasis added)⁸ and the FCC's
16 *Local Competition Order* which states that a bill and keep arrangement does not
17 "preclude a positive flat-rated charge for transport of traffic between carriers'
18 networks."⁹ Second, as noted in the discussion of Issue No. 13, because Charter
19 has the right to choose the POI, it has the ability to control how much transport it
20 must provide, an option not afforded to Qwest. Qwest provides an extensive
21 transport network which reaches each of Qwest's tandem and end office switches

⁸ 47 CFR §51.713(a)

⁹ First Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 15590, ¶1096 (Aug. 8, 1996)(subsequent history omitted).

1 and is entitled to compensation for the use of these facilities. Charter's bill and
2 keep proposal does not afford Qwest compensation to which Qwest is entitled. For
3 these reasons Qwest is not willing to include dedicated transport in its bill and keep
4 proposal.

5 **VIII. DISPUTED ISSUE NO. 16: INDIRECT INTERCONNECTION**

6 **Q. ON PAGE 53 MR. GATES IS CRITICAL OF THE LANGUAGE BOTH**
7 **PARTIES HAVE AGREED TO THAT IF THE PARTIES WISH TO USE A**
8 **THIRD PARTY TRANSIT PROVIDER THEY NEED TO AMEND THE**
9 **INTERCONNECTION AGREEMENT. WHY IS THIS IMPORTANT**
10 **FROM QWEST'S PERSPECTIVE?**

11 A. The insertion of a third party transit provider into the traffic flow introduces new
12 issues related to compensation and the exchange of records, issues best addressed
13 through an amendment to the interconnection agreement. The Charter proposed
14 language does not acknowledge or address these issues. While stating that traffic
15 the parties exchange shall be subject to the same compensation, if any, that applies
16 with direct connection, it does not recognize that the transit provider may be
17 delivering traffic for more than one carrier and that these different carriers may
18 have differing compensation arrangements with Qwest. In addition, the traffic
19 delivered to Qwest may be transiting to still another carrier and that carrier may not
20 have a bill and keep arrangement with Charter. At a minimum, this brings about
21 the need for an exchange of records to identify each carrier's traffic. When Charter
22 is the originating carrier, Charter should be responsible for supplying the requisite
23 billing information to Qwest and other carriers to whom Charter originated traffic is

1 delivered. These issues must be fully addressed and can be addressed through the
2 amendment process provided for in the agreed to language.

3 **Q. ON PAGE 54 MR. GATES ARGUES THAT SINCE THE PARTIES ARE**
4 **CURRENTLY NEGOTIATING AN AGREEMENT, NOW IS THE TIME TO**
5 **ADDRESS THIS ISSUE, NOT IN A FUTURE AMENDMENT. PLEASE**
6 **RESPOND.**

7 A. Mr. Gates' statement is not consistent with the approach taken by Charter during
8 the negotiations. As I noted in my direct testimony, Charter never raised this issue
9 during the negotiations. Qwest was only made aware of this new issue on the day
10 Charter's Petition for Arbitration was filed, and still has not had an opportunity to
11 discuss the language with Charter. Although at page 51 Mr. Gates discusses the
12 desirability of indirect interconnection in certain circumstances where traffic
13 volumes do not justify direct interconnection, Charter and Qwest are already
14 directly interconnected. To the extent that Charter wishes to change this
15 arrangement, the parties should take the time to fully explore what Charter is
16 attempting to do and make sure that the amendment language adequately addresses
17 all relevant issues.

18 **IX. DISPUTED ISSUE NO. 18: RATES FOR 911 FACILITIES**

19 **Q. DOES MR. GATES' TESTIMONY PRESENT THE CURRENT VERSION**
20 **OF QWEST'S PROPOSED LANGUAGE FOR SECTION 10.3.7.1.1?**

21 A. No. As I noted in my direct testimony, in an attempt to resolve this issue Qwest has
22 modified the last sentence of this section from the version that was included in the
23 parties' previous filings. Qwest's proposed last sentence now reads as follows:

1 911/E911 DS0 trunks may be provisioned on either muxed LIS T1
2 facilities or muxed private line T1 facilities at the CLEC's discretion.

3 This language clarifies the options available to Charter: it can either order LIS
4 facilities priced at TELRIC rates, or private line facilities priced at tariffed rates.

5 **Q. ON PAGE 60 MR. GATES CITES FCC STATEMENTS HE BELIEVES**
6 **REQUIRE QWEST TO PROVIDE 911 FACILITIES AT TELRIC RATES.**
7 **DOES THE QWEST LANGUAGE ALLOW CHARTER TO ORDER**
8 **911/E911 FACILITIES AT TELRIC RATES?**

9 A. Yes. The Qwest language I just cited allows this as an option. However, unlike the
10 Charter language, it does not require that LIS facility rates apply to all facilities
11 used for 911 services. This is important since LIS is just one option for 911
12 facilities. Another option is to purchase private line facilities to carry 911/E911
13 traffic. If Charter orders a private line from Qwest to carry 911/E911 traffic,
14 private line rates should apply, not LIS rates as Charter's language would require.
15 Charter's proposed language is overly broad and should be rejected.

16 **X. CONCLUSION**

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 A. Yes.