

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of:)	
)	Docket No. UT-033044
QWEST CORPORATION)	
)	JOINT CLEC ANSWER TO
To Initiate a Mass-Market Switching and)	COVAD MOTION FOR
Dedicated Transport Case Pursuant to the)	SUMMARY JUDGMENT
Triennial Review Order)	
_____)	

Eschelon Telecom of Washington, Inc., Integra Telecom of Washington, Inc., Global Crossing Local Services, Inc., McLeodUSA Telecommunications, Inc., Pac-West Telecomm, Inc., and XO Washington, Inc. (collectively “Joint CLECs”) answer and support the Motion for Summary Judgment of Covad Communications Company (“Covad”).

The Federal Communications Commission (“FCC”) established a presumption that competing local exchange companies (“CLECs”) are impaired in their ability to provide service if they do not have access to unbundled interoffice transport from Qwest Corporation (“Qwest”) and other incumbent local exchange companies. To rebut that presumption, Qwest must produce evidence to prove that a sufficient number of CLECs are self-provisioning transport, or making wholesale transport services generally available to other CLECs, between specific Qwest central offices. Qwest has not produced such evidence.

Assuming the accuracy of the information that Qwest has provided for purposes of Covad’s motion, that evidence is not sufficient as a matter of law to prove that *any* CLEC is self-provisioning or generally offering wholesale transport services between any Qwest central offices. Qwest’s evidence demonstrates nothing more than that some CLECs have constructed their own fiber optic networks in the greater Seattle metropolitan area and have collocated in Qwest central offices. Qwest produced

no evidence that any of those networks are constructed to provide transport between Qwest central offices, much less that any such transport routes are operationally ready at DS3 or DS1 capacity levels.

Qwest's assertions of CLEC wholesale transport provisioning are similarly devoid of factual support. In addition to relying on the location of CLEC network facilities, Qwest alleges that certain CLECs offer wholesale transport based on general statements on the carriers' websites that they provide services to other carriers. None of those websites, however, even mentions transport services, much less transport between specific Qwest central offices. Qwest produced no CLEC tariff, price list, or contract for wholesale transport services or any other evidence to demonstrate the capacity, rates, terms, conditions, or availability of any wholesale transport services offered by any CLEC between any Qwest central offices.

On its face, the evidence that Qwest has presented is insufficient to overcome the FCC's impairment presumption. Accordingly for the reasons discussed above and in Covad's motion, the Commission should grant the relief that Covad has requested.

DATED this 13th day of February, 2004.

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By _____
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