BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of QWEST CORPORATION To Initiate a Mass-Market Switching and Dedicated Transport Case Pursuant to the Triennial Review Order	Docket No. UT-033044

BATCH HOT CUT REBUTTAL TESTIMONY OF MICHAEL ZULEVIC

FILED ON BEHALF OF

DIECA COMMUNICATIONS, INC.,

D/B/A COVAD COMMUNICATIONS COMPANY

February 17, 2004

I. QUALIFICATIONS

Q. ARE YOU THE SAME MICHAEL ZULEVIC THAT FILED DIRECT TESTIMONY ON BEHALF OF COVAD ON JANUARY 23, 2004?

A. Yes I am.

Q. WHAT IS THE PURPOSE OF YOUR RESPONSE TESTIMONY?

A. The purpose of my testimony is to respond to the testimony of Qwest witness Dennis Pappas, and to correct certain factually inaccurate assumptions and conclusions contained in his testimony. In so doing, my testimony will also highlight the fact that it is imperative that Qwest's batch hot cut ("BHC") process include all of the data migration scenarios I discussed in my Direct Testimony as well as in this Response Testimony.

Q. MR. PAPPAS STATES THAT THE INCLUSION OF DATA IN THE BHC PROCESS WILL MAKE THAT PROCESS TOO COMPLICATED. DO YOU AGREE?

A. I couldn't disagree more strongly with Qwest's position that data should not be included in the BHC process. As I discussed in my Direct Testimony, the delivery of bundled voice and data services is the key to competition and success in the telecommunications market. Coincidentally, I was reading a February 5, 2004, article from Forbes.com, "Telecom's Bundles of Joy," (http://www.forbes.com/2004/02/05/cx_al_0205satellite_print.html) in which one analyst was quoted as saying that "bundles are big winners with customers." More importantly, though, another analyst made clear that "for the bundle to succeed, it must appear seamless to the customer." *See* Exhibit No.___ (MZ-16). That is exactly the point that I wanted to make in my Direct Testimony – in order for competitors to even have a shot at actually being competitive in the current telecommunications marketplace, they must be able to provide smoothly, and without disruption, a bundled voice and data service to new and existing customers. Without including data in the BHC process, competitors will be deprived of the ability to seamlessly and correctly provision or migrate service to their

customers. The only winner in that scenario is Qwest, which is probably why it's refusing to include data in the BHC process.

Q. QWEST CLAIMS THAT THE BHC PROCESS SHOULD ONLY INCLUDE VOICE CUSTOMERS BECAUSE THE FCC ONLY DISCUSSED VOICE CUSTOMERS IN CONNECTION WITH THE BHC ISSUE. DO YOU AGREE?

A. Neither Mr. Pappas nor I are FCC commissioners, so I really don't think that Mr. Pappas – or myself, for that matter -- can state fairly or authoritatively what the FCC meant by some portion of the TRO. Setting that aside, I just don't think that the TRO states what Qwest wants it to state.

First, we can all pick and choose our favored excerpts from the TRO. But, regardless of where I look in the TRO, I do not see any specific exclusion of data from the BHC process. To the contrary, I see any number of references by the FCC to the establishment of a process that is efficient in cutting over loops from one switch to another, no more and no less. For instance, in the Triennial Review Order ("TRO") at Footnote 1574, when discussing the need to review the ILECs BHC processes, the FCC states that "this review is necessary to ensure that customer loops can be transferred from the incumbent LEC main distribution frame to a competitive LEC collocation as promptly and efficiently as incumbent LECs transfer customers using unbundled local circuit switching." This says to me that the FCC was most concerned about the ability to move customers from one switch to another seamlessly and smoothly. If a customer has data, we can probably presume that the FCC intended for the entirety of the services being provided over the loop, whether its just voice or voice and data, to be seamlessly migrated in order to minimize the impact on the customer and consequent potential for customer loss.[1]

[1] *See* TRO, ¶¶ 465 and 466.

Second, it is my understanding that the FCC actually considered, and may be willing to revisit, AT&T's proposal to "packetize" the entire public switched telephone network for both voice and data traffic should it determine that the hot cut processes are not sufficient to handle necessary volumes.[2] To my eye, that is not close to being the same thing as a BHC process being defined as a "voice only" process.

Third, while I am not a lawyer (and neither is Mr. Pappas), Mr. Pappas overstates what Covad's discovery responses were intended to accomplish. Because DSL is an interstate service (which Qwest presumably agrees with, since it only files federal tariffs for its DSL service), Covad objected to the discovery requests that sought information about local exchange or switched (i.e., intrastate) services. Had Qwest or some other party asked information about "qualifying services", the response would have been different. Notwithstanding the fact that Covad only provides an interstate service, the underlying facility (i.e., the local loop) over which that service is provided is very clearly within the regulatory bailiwick of the Commission, and the BHC process applies to the local loop transmission facility. And because of that fact, in tandem with the fact that Covad provides a qualifying service, Covad produced all information requested (i.e., collocation space, ATM switch location, etc.), to the extent available.[3] Moreover, Qwest is certainly in no position to cast stones about "wanting it both ways." Qwest relies quite heavily on the existence of intermodal competition – in the form of cable and/or VOIP providers, neither of which are, at least at this point, apparently subject to the regulatory authority of the Commission. Qwest also factors in revenues derived from data when setting out its business case on the switching impairment issue.

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[2] *See* TRO, ¶ 491.

[3] Covad Communications Company's Responses to Commission Bench Requests Nos. 32-38; Covad Communications Company's Responses to Commission Bench Requests Nos. 39-62; and Covad Communications Company's Responses to Qwest's First Set of Data Requests to all CLEC Parties.

Q. QWEST ALSO COMPLAINS THAT DATA SHOULD NOT BE INCLUDED IN THE BHC BECAUSE OF LOOP FACILITY REARRANGEMENT ISSUES. IS THIS A LEGITIMATE CONCERN?

A. In a word, no. Mr. Pappas voices a purported concern about how to ensure that any outside plant rearrangement would not result in loss of data service. This is just not an issue at all. When a customer is converted from a line sharing or a UNE-P line splitting arrangement to a UNE-L loop splitting arrangement, the loop is, obviously, capable of supporting DSL service – presumably a 2-wire non-loaded loop. So, from the outset, we know that the existing – or original -- loop is capable of supporting DSL service. And because that is the exact same loop that will be (re)used when the cutover from one switch to another switch occurs, the loop will continue to be able to support DSL service. Additionally, as Ms. Barrick states in her testimony, the Line Provisioning Center is responsible for ensuring that the loop assigned will be evaluated to ensure compatibility with the requested service.[4]

That takes us to the second part of Mr. Pappas "concern" about outside plant rearrangement – the ability to reflect the type of loop in Qwest's network plant records. Yet again, this is just a smoke and mirrors objection by Qwest and not a legitimate issue at all. Currently, Qwest flags line shared and line split loops to indicate the presence of data on those loops so that, when working in the outside plant, Qwest technicians will not inadvertently cutover a line shared or line split loop to a loop that is not capable of supporting DSL service. So, from the outset, we know that the existing – or original – loop has been flagged as a loop type capable of supporting DSL service and that any plant cutover will be done to another DSL capable loop. And since that flag exists in the Qwest loop inventory records at the time of the cutover from one switch to another switch, there is absolutely no reason that Qwest cannot transfer that flag or also flag the loop after the

[4] Direct Testimony of Lorraine Barrick, dated January 23, 2004, p. 28.

cutover occurs. To be frank, the only reason precluding the flagging is Qwest's desire to make the BHC process one that places CLECs at a competitive disadvantage to Qwest.

Q. QWEST APPEARS TO CLAIM THAT THE NUMBER OF LINE SPLIT LINES IN SERVICE SUGGESTS THAT THEY SHOULD BE HANDLED SEPARATELY FROM THE BHC PROCESS. DO YOU AGREE?

A. Not at all. The Qwest refusal is obviously just a self-serving ploy to make any voice and data loop migration as difficult as possible for the CLEC so that Qwest can swoop in, and by offering a smooth and seamless migration to Qwest voice and data, take that customer away from the CLEC.

More importantly, Qwest grossly underestimates the potential voice and data loops that fall within the scope of the BHC process. Qwest looks only at the number of line split lines in service that would have to be cutover. However, because the BHC process applies to orders for new CLEC customers who previously had been Qwest's or another CLEC's customer, you must take into account all the Qwest DSL (Qwest voice and data) and CLEC line shared DSL (Qwest voice and CLEC data) customers that might be migrated from the Qwest switch to a CLEC switch. Looking at those numbers, there are over one hundred and five thousand (105,998) Qwest DSL customers in Washington as of November 2003, and another ten thousand (10,523) CLEC line-shared customers as of November 2003.[6] Thus, the number of voice and data loops that might be cutover is substantially higher than what Qwest states.

Q. MR. PAPPAS APPEARS TO SUGGEST THAT A VOICE AND DATA LOOP HOT CUT CAN BE DONE ON A LINE BY LINE BASIS. IS THAT ACCURATE?

[5] TRO, _ 465.

[6] Qwest's performance results--PID (14-state 271 PID 5.0); January 27, 2004; pp. 279, 281.

A. No. We have looked at the Qwest web site to determine whether, today, a CLEC can ask for a hot cut of a line over which both voice and data are provided. The Qwest product catalogs[7] make clear that hot cuts are only available for voice only cutovers. So, Mr. Pappas' intimation that voice and data loops can be cutover on an individual line basis is flat out wrong.

Q. QWEST ALSO SUGGESTS THAT THERE ARE SOME DIFFICULTIES OR PROBLEMS THAT MIGHT HAVE TO BE WORKED OUT BETWEEN CLECS THAT NECESSITATES THAT ANY CUTOVER BE DONE OUTSIDE OF THE BHC PROCESS. DO YOU AGREE?

A. While I appreciate Qwest's concern, it is misplaced. By the time a voice and data loop will be cutover from one switch to another, all work and coordination between the CLECs has been completed. There is only one thing -- over and above the work necessary to cutover just the voice service -- that must be done on the day of cutover to ensure the smooth transition of voice and data from one switch to another switch, and that is the addition of one cross-connect by Qwest in the central office. In other words, the only "coordination" required for both voice and data to be cutover smoothly is Qwest doing the work it is supposed to do.

I find it ironic that Qwest raises this issue. As the Commission may know based on my testimony in the switching portion of this docket, CLECs have been seeking in the CMP process the ability to order on one LSR the migration of (1) line shared loops to line split loops; (2) line shared loops to loop split loops; and (3) line split loops to loop split loops. At no point has Qwest ever raised any concern about coordination amongst CLECs when discussing any process or systems changes that might be needed to accomplish a single LSR migration of one voice and data loop arrangement to another.

[7] http://www.qwest.com/wholesale/pcat

Q. PLEASE CORRECT MR. PAPPAS'S STATEMENT THAT COVAD AGREED THAT NEW LINE SPLITTING ARRANGMENTS ARE TOO COMPLICATED TO INCLUDE IN THE BHC PROCESS.

A. It seems to me that Mr. Pappas (or perhaps, Mr. Steese) had a fundamental misunderstanding of what we were discussing during the BHC forum and, indeed, of the Qwest BHC process. There are, essentially, two types of "new arrangements" or "new customers." The first type of arrangement is the "new to service" customer. In this type of arrangement, the customer has not previously been provided service by any carrier at the customer's current location. In this first scenario, where a new loop would have to be placed and all of the central office work to connect that customer to any provider's switch for the first time would have to be done, I would agree that it is not appropriate to include this arrangement in the BHC process. Relatedly, it appears that it is not possible to include these types of customers in the BHC process because the BHC only applies to reused facilities. And, per Qwest's SGAT, you cannot even have a line split, line shared, or loop split service installed the way Mr. Steese tried to describe it in his questions to me because all of those services assume the existence of a working line to which data is added.[8]

The second type of arrangement is the "new to the CLEC" customer. In this type of arrangement, the customer has been receiving service at the customer's current location from some other provider and has chosen the CLEC as his or her new provider. For this type of new customer, establishing "new service" is nothing more than migrating the existing service from one provider to another provider – in other words, cutting over and reusing the loop and all associated services from one switch to another. In this second scenario, I firmly believe that voice and data loops should be included in the BHC process. This would include the migration of (1) Qwest voice/Qwest data (Qwest DSL), (2) Qwest voice/CLEC data (line

[8] SGAT §§ 9.4.1; 9.4.4.1.1; 9.21.1, 9.21.4.1.1; 9.24.1; 9.24.4.1.1

shared CLEC DSL); (3) CLEC voice/Qwest data (UNE-P DSL), or (4) CLEC UNE-P voice/CLEC data (line splitting) to the loop splitting CLEC that has won the customer. Thus, the issue is not limited or narrow at all, and given the data I cite about the number of lines that could be part of a hot cut, is really quite substantial.

Q. MR. PAPPAS BEMOANS THE COMPLEXITY OF PROVISIONING LINE SPLIT LOOPS. PLEASE CORRECT HIS MISUNDERSTANDING ABOUT THE DEGREE OF WORK REQUIRED TO INCLUDE LINE SPLIT LOOPS IN THE BHC PROCESS.

A. It is unreasonable to exclude data from the BHC process because it just does not involve that much more work. Qwest claims that significant efficiencies would be lost if data services were included, thus resulting in a more expensive process and associated higher rates. In reality, the inclusion of data really only means that Qwest would have to make one additional cross-connect in the central office. The Qwest pre-wire team would install two new cross-connects on the ICDF instead of only one that would be required for a UNE-P only circuit. One additional cross-connect installation, which would be done at the same time the voice cross-connect is installed and by the same two team members, would require an additional 2 or 3 minutes worth of work at the ICDF. No additional work would be required at the COSMIC frame.

This additional work, and any cost associated with it, is more than outweighed by the economies of scale and reduction in costs associated with a batch hot cut process. More importantly, when evaluating whether there is any merit to Qwest's claim about increased costs, it is important to keep in mind that the additional activity required to include data is the direct result of a Qwest decision that is out of step with what the other ILECs have done. That is, had Qwest made the decision to use the same OSS for the provisioning of UNE-P as for UNE-L, as most other ILECs have done, the migration from line sharing or line

splitting to loop splitting could be accomplished by removing and replacing a single cross-connect.

It is also important to know that a "just voice" line migration can involve just as many, if not more, "complexities" and additional tie pairs or cross-connects as the addition of data does. Specifically, even for one CLEC who only provided voice, some lines may terminate on the main distribution frame ("MDF") and some of the lines may terminate on the intermediate distribution frame ("ICDF") (depending on when the ICDF was added). So, there will be variations in the wiring and the number of jumpers and cross-connects required for the cutover of just voice customers for one CLEC. Given the fact that such variations are guaranteed, it's just not significant to include data where the only additional activity is the inclusion of one more cross connect.

Finally, it makes no sense to exclude data when you look at Qwest's plan for migrating the embedded UNE-P base to UNE loops. Because Qwest intends to complete the conversions of UNE-P to UNE-L on an office by office basis, excluding shared services from the batch process may delay the conversion of offices as these conversions will need to be handled one at a time.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. This concludes my Rebuttal Testimony, however, I anticipate filing all reply testimony permitted by the Commission, and being presented for cross examination at the hearing on the merits.