

Exhibit T-___ (TLS-5T)
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) DOCKET NO. UT-033044
Dedicated Transport Case Pursuant to the)
Triennial Review Order)
_____)

REBUTTAL TESTIMONY OF

THOMAS L. SPINKS

Batch Hot Cut Process Issues

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION STAFF

February 17, 2004

1 **Q. Please state your name and business address.**

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

5

6 **Q. Have you previously filed testimony in this proceeding?**

7 A. Yes, I filed testimony regarding the unbundled switching for the mass market on
8 January 26, 2004.

9

10 **Q. What is the purpose of your testimony at this time?**

11 A. The purpose of my testimony is to provide the Commission with Staff's views
12 regarding Qwest's proposed Batch Hot Cut Process (BHCP) as filed on January
13 23, 2004.

14

15 **Q. What concerns has staff identified with Qwest's BHCP testimony?**

16 A. Staff has concerns with the undeveloped and untested BHCP proposal, the cost
17 study supporting the proposed batch cut non-recurring charge, and the absence
18 of sufficient measures, standards, and payments to ensure there is incentive for

1 Qwest to perform hot cuts such that competitors have a meaningful opportunity
2 to compete.

3
4 **Q. What are staff's concerns with the proposed BHCP generally?**

5 **A.** Staff has a number of concerns regarding the manner in which the process has
6 been developed. Staff believes the parties have spent insufficient time in
7 attempting to resolve differences. In addition, unlike in the Qwest 271
8 proceeding, no independent review, testing, or auditing has been performed to
9 date to ensure that an efficient and effective process is developed. Instead,
10 Qwest retained Ms. Barrick through Hitachi Consulting to review and test its
11 processes and procedures pertaining to the BHCP. Since there are some 14 to 19
12 impasse issues to be resolved, it cannot be said that the BHCP is complete, let
13 alone tested. The process that Qwest has proposed is incomplete. Staff is also
14 concerned that the BHCP not be viewed as if it were simply a one-time process
15 needed to convert UNE-P to UNE-L in the event the Commission makes findings
16 of non-impairment with regard to the mass market switching element in certain
17 markets. The larger sense in which to view the BHCP is as an ongoing service
18 necessary for CLECs to serve the mass market into the foreseeable future. The
19 batch hot cut process is important for the Commission to "get right" because the

1 rate at which future mass market competition can develop in Washington will
2 depend in part on Qwest's ability to efficiently and effectively transfer customers
3 among the various competitors.

4
5 **Q. How should the Commission proceed with respect to the BHCP?**

6 **A.** The Commission will need to decide the issues before it so that a BHCP can be
7 approved and implemented as required by the TRO. However, the Commission
8 need not treat its decisions and the resulting process as the final determination in
9 the matter. Instead, the Commission should make an interim decision subject to
10 later modification after the issues have been addressed in a region-wide forum
11 such as the Long Term PID Administration (LTPA), Change Management
12 Process (CMP), or a Regional Oversight Committee (ROC) sponsored process.
13 Staff believes that if time had allowed, the parties would have been able to
14 resolve more of the issues. If a facilitator or regional decision-making body had
15 been included, all of the issues could have been resolved on a regional basis. If
16 six different Qwest states resolve the impasse issues in six different ways, the
17 result will be unmanageable for both Qwest and the CLECs.

1 **Q. What are the concerns with the cost study?**

2 **A.** Staff's concerns with the cost study are that the study does not comply with prior
3 Commission decisions regarding TELRIC rates, includes new factors not
4 approved by the Commission, and proposes an economically inefficient rate
5 design. In addition, the resolution of the 14 to 19 impasse issues could well affect
6 the subsequent cost of the revised process.

7
8 **Q. How does the cost study not comply with prior Commission decisions**
9 **regarding TELRIC rates?**

10 **A.** There are two instances in which Qwest has not followed past Commission
11 decisions. First, the proposed rate includes a charges for both connection and
12 disconnection which this Commission found in earlier generic cost proceedings
13 to be inappropriate and required Qwest to maintain separate connection and
14 disconnection charges. (See Ex. T-___ TKM-1T, p. 16, lines 5-12.) Second, the
15 cost study also shows that \$900,000 has been included in rates for OSS
16 improvements related to the BHCP. In earlier generic cost proceedings the
17 Commission ordered recovery of OSS costs through a separate OSS recovery
18 charge. The Commission deferred consideration of further OSS cost recovery
19 until the non-recurring cost proceeding which takes place later this year. Qwest

1 is premature in asking for recovery of these costs at this time and should remove
2 them from the cost study.

3
4 **Q. Which factors are new to this study?**

5 **A.** Qwest states that it uses Washington-specific cost factors in the study but then
6 explains that it has recently updated its factors methodology for Washington.
7 The Commission has not examined or approved any such revised methodology
8 for calculating factors in any prior proceeding. Staff cannot ascertain within the
9 time constraints of this proceeding whether the changes are reasonable or
10 compliant with prior Commission decisions.

11
12 **Q. What is staff's concern with the rate design?**

13 **A.** Qwest proposes a flat non-recurring charge of \$45.96 per line over a proposed
14 range of 25 to 100 lines per order. Staff believes the batch hot cut process is
15 subject to economies of size such that the incremental cost of making an
16 additional cut after the first twenty-five should decline as efficiencies are
17 realized. Qwest's proposed rate design averages efficiency gains over all units
18 rather than reflecting them incrementally. Verizon has proposed such a
19 declining block rate structure in the New York TRO proceeding. In that case, the

1 initial rate for the first 25 lines in a batch is around \$95 and subsequent cuts are
2 around \$5 per line. The Commission could require Qwest to examine whether a
3 declining block rate structure would more appropriately reflect the underlying
4 cost of conducting batch hot-cuts.

5
6 **Q. How could the resolution of the impasse issues affect the proposed non-**
7 **recurring charge?**

8 **A.** The cost estimates are based on the work required by the process Qwest has
9 proposed. As the impasse issues are resolved, Qwest may be required to
10 perform additional work that would increase certain costs. On the other hand, if
11 the maximum size of the batch is increased, staff believes it likely that further
12 economies could be gained that would lower cost.

13
14 **Q. How should the Commission proceed with respect to the cost study?**

15 **A.** The Commission will need to make decisions regarding issues raised by the cost
16 studies, and will need to approve a rate as required by the TRO. However, the
17 Commission should treat its decision as an interim decision subject to later
18 alteration. The Commission will convene a prehearing conference later this year
19 to begin the review of Qwest's non-recurring costs, which will include

1 submission of time and motion studies. In its order in the instant proceeding, the
2 Commission should direct Qwest to submit time and motion studies for the
3 BHCP as part of the proceeding to review non-recurring costs that will occur
4 later this year. That proceeding will also provide the opportunity to review the
5 revised cost study factors and any other cost-related issues arising in this
6 proceeding.

7
8 **Q. What is staff's concern with the BHCP performance measures?**

9 **A.** At this time, performance measures and standards are largely non-existent and
10 QPAP payments have not yet been determined. Staff understands that Eschelon
11 is proposing that the LTPA process be used to determine what additional
12 measures and standards need to be identified for the BHCP. Once additional
13 measures and standards are determined, states will need to determine Tier I and
14 II payments and incorporate them into the QPAP in a six-month review
15 proceeding. The TRO requires that transition plans be developed by this
16 September, eleven months after the effective date of the TRO. The Commission
17 should not allow the conversion process to begin until payments for performance
18 failures are incorporated into the QPAP.

1 Q. Does this complete your testimony?

2 A. Yes.

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