

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

In the Matter of the Petition of)
) **DOCKET NO. UT-033044**
QWEST CORPORATION)
)
To Initiate a Mass-Market Switching)
And Dedicated Transport Case)
Pursuant to the Triennial Review)
Order)

REBUTTAL TESTIMONY

OF

DOUGLAS DENNEY

ON BEHALF OF

**AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.,
AT&T LOCAL SERVICES ON BEHALF OF TCG SEATTLE, AND TCG
OREGON
(COLLECTIVELY "AT&T")**

DS0 COST TOOL

February 20, 2004

1

I. INTRODUCTION

2 Q.

PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A.

My name is Douglas Denney. I work at 1875 Lawrence Street in Denver,
Colorado.

5 Q.

**ARE YOU THE SAME DOUGLAS DENNEY THAT SUBMITTED PREFILED
DIRECT TESTIMONY AND EXHIBITS IN THIS PROCEEDING?**

7 A.

Yes, I am.

8

II. PURPOSE OF TESTIMONY

9 Q.

WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10 A.

The purpose of my Rebuttal Testimony is to respond to the Response Testimony
of Messrs. Buckley and Copeland on behalf of Qwest Corporation (“Qwest”) to
the extent their testimony speaks to the AT&T DSO Impairment Analyses Tools
 (“AT&T Tools”). AT&T witnesses Baranowski and Selwyn will respond to
Messrs. Buckley’s and Copeland’s testimony relating to the overall business case
analysis presented by AT&T.

15

1 **III. WITH MINOR EXCEPTIONS, MESSRS. BUCKLEY'S AND**
2 **COPELAND'S CRITICISMS OF AT&T TOOLS ARE WITHOUT**
3 **MERIT AND SHOULD BE REJECTED**

4
5 **Q. AS AN INTRODUCTORY MATTER, MESSRS. BUCKLEY AND COPELAND**
6 **OBSERVE THAT AT&T'S MOTIVATION IN THIS PROCEEDING IS TO**
7 **PERPETUATE THE AVAILABILITY OF UNE-P AND IMPLY THAT THERE IS**
8 **SOMETHING IMPURE ABOUT SUCH A MOTIVATION. DO YOU HAVE ANY**
9 **COMMENTS REGARDING THEIR OBSERVATION?**

10 **A.** My first comment would be that their observation seems to state the obvious. By
11 that I mean of course AT&T seeks to perpetuate the availability of UNE-P. As
12 other AT&T witness Finnegan explains in his Direct Testimony in this case, the
13 continued availability of UNE-P, which allows CLECs to compete without
14 replicating the entirety of the incumbent monopolist's network, is critical to
15 achieving the goals of the Telecommunications Act of 1996 for the majority of
16 local telephone users that comprise the mass market.¹ My second comment
17 would be to likewise observe that Qwest has precisely the opposite motivation
18 and in fact initiated this proceeding for the express purpose of challenging the
19 Federal Communications Commission's ("FCC's") national finding of

20

¹ See generally, Finnegan Direct Testimony, pp. 18-53.

1 impairment relative to mass-market switching and dedicated transport.² Thus, if it
2 were not for Qwest initiating this proceeding, obviously AT&T would not be
3 forced to protect its interests relative to the continued availability of UNE-P. In
4 any event, there is certainly nothing impure about AT&T's position in this case.
5 In point of fact, it is consistent with the FCC's national finding.

6 **Q. A RECURRING ARGUMENT IN MESSRS. BUCKLEY'S AND COPELAND'S**
7 **TESTIMONY IS THAT AT&T HAS PERFORMED A COST DISPARITY**
8 **ANALYSIS RATHER THAN A REVENUE/COST BUSINESS CASE ANALYSIS.**
9 **ARE THEY CORRECT?**

10 **A.** No, they are not. In my Direct Testimony, I quantified the cost disadvantages an
11 efficient CLEC would confront in attempting to serve mass-market customers in
12 the absence of unbundled ILEC switching. Specifically, the analysis measured
13 the minimum additional costs that an efficient CLEC would incur if continued
14 access to unbundled local switching was denied and the CLEC was required to
15 serve the mass-market using its own switch and UNE-L. This analysis
16 established that an efficient CLEC would face significant and insurmountable
17 costs such that a barrier to entry in Washington would be created. That is not to
18 say, however, that AT&T's analysis was a simple cost disparity analysis. To the
19 contrary, AT&T's analysis included precisely the types of costs that the FCC

² *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, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003) (“*Triennial Review Order*” or “*TRO*”).

1 acknowledged that CLECs would incur to deploy equipment to “backhaul” the
2 customer’s loop to the CLEC switch in connection with UNE-L. To this point,
3 the FCC has acknowledged that the cost of backhaul for the efficient CLEC is
4 indeed a cost disadvantage and has charged the state commission with the duty to
5 “pay particular attention to the impact of migration and backhaul costs.”³ This of
6 course is not the end of the analysis. The Washington Commission is then
7 required to determine whether entry is economic after conducting a business case
8 analysis. To this end, the costs included in the DSO Tools, along with switching
9 and certain additional costs, contained in AT&T’s BCAT presented by AT&T
10 witness Baranowski, which, taken together, constitutes the required
11 comprehensive analysis. The end result is the revenue/cost business case analysis
12 contemplated by the FCC. AT&T witnesses Baranowski and Selwyn will address
13 why Qwest’s claims that AT&T’s business case analysis is inappropriate and not
14 consistent with the TRO are unfounded.

15 **Q. MESSRS. BUCKLEY AND COPELAND CRITICIZE AT&T FOR ITS FAILURE**
16 **TO CONSIDER QWEST’S EMBEDDED COSTS. IS THIS A LEGITIMATE**
17 **CRITICISM?**

18 **A.** No. Both Qwest witnesses mischaracterize the scope and purpose of AT&T’s
19 Tools. As I explained in my Direct Testimony, the DSO Impairment Analysis
20 Tools were designed to look at the costs referred to as the CLEC’s “backhaul
21 infrastructure.” As the FCC recognized, these additional costs are encountered by

³ TRO, ¶520.

1 the CLEC in linking the customers loop where it comes in at the Qwest's central
2 office to the CLEC switch, which is in a remote location and these costs are not
3 incurred by Qwest.⁴ Qwest glosses over this fact and seeks to shift the focus to a
4 comparison of the networks in total. While that is not the purpose of the Tools or
5 my testimony, the BCAT includes additional costs associated with the CLEC's
6 use of its own switching and other network facilities that are in addition to the
7 backhaul infrastructure, that must also be considered in the overall cost of
8 providing service to mass-market customers (as presented by AT&T witness
9 Baranowski). What is neither required nor relevant in the analysis are Qwest's
10 embedded costs. Such costs are simply irrelevant to the analysis of whether a
11 CLEC is impaired if unbundled local switching is no longer available. Nor is
12 Qwest's comparison of Qwest's embedded costs to TELRIC. AT&T has modeled
13 an efficient CLEC and the only comparison it has made to Qwest's existing
14 network concerns the CLEC's backhaul infrastructure and its related costs, which
15 the FCC recognized Qwest does not incur in provisioning local service to its
16 customers.

17 **Q. HAVING ADDRESSED THOSE OVERARCHING THEMES BY QWEST, DOES**
18 **QWEST ALSO TAKE ISSUE WITH SPECIFIC ASSUMPTIONS AND INPUTS**
19 **USED IN THE AT&T DSO IMPAIRMENT ANALYSIS TOOLS?**

20 **A.** Yes, it does. Generally speaking, Qwest makes the following allegations relative
21 to assumptions and inputs used in the DSO Impairment Analysis Tools:

⁴ *TRO*, ¶¶ 479-80.

- 1 1) DSO Tools assumes the transport network of an efficient CLEC would be
2 owned rather than leased;
- 3 2) DSO Tools make an improper calculation of the mass market business
4 lines;
- 5 3) DSO Tools uses structure-sharing inputs that are not consistent with those
6 advocated by AT&T in UNE cases;
- 7 4) DSO Tools employ a churn percentage that is inflated;
- 8 5) DSO Tools miscalculate maintenance expense; and
- 9 6) DSO Tools contains several errors regarding the “other taxes” factor,
10 including the factor deviates from supporting documentation, the factor is
11 misapplied and the factor is calculated incorrectly.

12 **Q. DO YOU AGREE WITH QWEST’S ALLEGATIONS REGARDING THESE**
13 **INPUTS?**

14 **A.** To a limited degree only. I agree that the Tools miscalculate maintenance
15 expense and that the “other taxes” factor deviates from supporting documentation
16 and is misapplied. I do not agree with the other claimed errors.

17 **Q. PLEASE DESCRIBE FURTHER THE AREAS WHERE YOU AGREE WITH**
18 **QWEST.**

19 **A.** With regard to AT&T’s calculation of maintenance expense, Qwest witness
20 Buckley correctly points out that in order to arrive at a monthly expense, one must

1 divide annual expenses by 12.⁵ I would note that AT&T actually made this
2 correction in response to discovery in this matter. Those corrections are
3 incorporated into a revised version of the Tools, which are provided in **Exhibit**
4 **DD-9**.⁶ I have also attached a revised version of the Inputs Documentation
5 (**Exhibit DD-11**, previously filed as Exhibit DD-4) and the CLEC Cost
6 Disadvantage Results for Washington LATA Nos. 672, 674 and 676 (**Exhibit**
7 **DD-12**, previously filed as Exhibit DD-5). These Exhibits reflect the revisions
8 that are addressed in this testimony and the Rebuttal Testimony of AT&T witness
9 Baranowski.

10 In addition, I agree with Messrs. Buckley's and Copeland's observation that
11 "other taxes" have been incorrectly applied in AT&T's BCAT.⁷ Mr. Buckley also
12 identified two additional issues with AT&T's application or use of the "other
13 taxes" factor: (1) the "other taxes" factor used in the model deviates from the
14 supporting documentation; and (2) the factor is calculated incorrectly. I agree that
15 the factor used deviates from the supporting documentation but disagree with the
16 claim that the factor is calculated incorrectly.

⁵ Buckley Response Testimony at p.22.

⁶ There are other revisions to the Tools, including revisions discussed in this testimony and in AT&T witness Baranowski's Rebuttal Testimony. Such revisions are described in **Exhibit DD-10**.

⁷ Buckley Response Testimony at p. 29; Copeland Response Testimony at p. 31.

1 Q. PLEASE EXPLAIN YOUR AGREEMENT WITH MR. BUCKLEY REGARDING
2 THE OTHER TAXES FACTOR.

3 A. AT&T's intention all along was to use the state-specific factor, based on Qwest's
4 latest filing of ARMIS data. It has now come to our attention that Qwest has
5 updated both its 2001 and 2002 ARMIS data. These updates would produce a
6 factor of 4.84% based on 2001 data and 5.10% based on 2002 data. The revised
7 Tools attached as Exhibit DD-9 have utilized the most current factor of 5.1%.
8 Second, we agree that AT&T misapplied the "other taxes" factor by using it as a
9 factor on both revenues and expenses. AT&T has corrected its Tools to only
10 apply the other taxes factor to revenues.⁸

11 Q. PLEASE EXPLAIN THE BASIS FOR YOUR DISAGREEMENT WITH MR.
12 BUCKLEY REGARDING THE CALCULATION OF THE "OTHER TAXES"
13 FACTOR.

14 A. Qwest criticizes AT&T's Tools for failing to remove from the "other taxes" factor
15 certain expenses that it claims are related to "pass-through" taxes. The "other
16 taxes" factor has been the subject of debate in many UNE cost cases. Qwest has
17 never identified or removed these "pass-through" taxes from the "other taxes"
18 factor that it advocated in any of those cases, including the current Washington
19 UNE cost case. Nor has it ever advocated that AT&T's "other taxes" factor
20 should exclude these "pass-through" taxes. With this background in mind, I

⁸ AT&T does not, however, agree with Qwest's proposed fix on this issue. Qwest calculated two factors -- a revenue and investment factor. It then correctly applied the revenue factor to revenues, but misapplied the investment factor to expenses. To be consistent, Qwest should have applied the investment factor to investment.

1 would also note that Mr. Buckley provides absolutely no support for the 50%
2 reduction in the factor that he claims is attributable to these “pass-through” taxes
3 in this proceeding. As a result, Qwest’s position on the “pass-through” taxes
4 should be rejected.

5 **Q. CONCERNING YOUR OTHER DISAGREEMENTS WITH QWEST’S INPUT**
6 **CLAIMS, MR. BUCKLEY STATES ON PAGE 17 THAT THE AT&T TOOLS**
7 **ASSUME THAT A CLEC WILL BUILD ITS OWN TRANSPORT FACILITIES. IS**
8 **MR. BUCKLEY CORRECT IN THIS STATEMENT?**

9 A. No, he is not. First, the DSO Analysis Tools do not assume that in all
10 circumstances a CLEC will build its own interoffice transport. The Tools assume
11 that a CLEC will self-provision interoffice rings, which connect a CLEC’s node
12 offices together. Additionally, the model assumes that only approximately 20%
13 of all Qwest offices will be served by CLEC-provisioned transport. This is
14 certainly consistent with Qwest’s filing in the UNE Fact Book, which states that
15 currently 13% of Qwest’s wire centers are penetrated by fiber-based CLECs. I
16 would also note that the UNE Fact Book would itself tend to establish the fallacy
17 of Mr. Buckley’s claim that an efficient CLEC would lease rather than build. The
18 remaining Qwest offices that are modeled by the Tools are connected to the
19 interoffice rings using Qwest provided (leased) transport. Therefore, Qwest’s
20 claim that the Tools only model CLEC-owned (built) transport is wrong.

1 Q. IF YOU FOLLOWED QWEST'S LOGIC AND ASSUMED LEASING
 2 EVERYWHERE IN THE AT&T TOOLS WHERE YOU PREVIOUSLY ASSUMED
 3 A BUILD, WOULD THE TRANSPORT COSTS BE HIGHER OR LOWER?

4 A. Based upon my analysis, the transport costs would be materially higher. I have
 5 prepared the following table (Table 1, below) that compares the average cost
 6 assumed by the transport tool to build transport facilities to connect the CLEC's
 7 node collocations to the cost to lease those same facilities. As the table
 8 demonstrates, the cost to build the transport facilities is less than the UNE rates
 9 Qwest currently charges in Washington for the lease of those same transport
 10 facilities. Thus, if the CLEC were to lease UNEs for all transport facilities
 11 modeled, the cost incurred by the CLEC would be higher than what AT&T has
 12 modeled. The Tools are clearly modeling a more efficient CLEC network for
 13 transport.

Comparison of DS0 Impairment Model Cost to Build per DS3 versus UNE Rates Cost to Lease per DS3

	DS0 Impairment Model - Build per DS3	UNE Rates - Lease per DS3
Fixed per Month 0 - 8 Miles	\$ 103.54	\$ 224.72
Fixed per Month 8 - 25 Miles	\$ 103.54	\$ 225.41
Fixed per Month 25 - 50 Miles	\$ 103.54	\$ 231.08
Fixed per Month 50 - 200 Miles	\$ 103.54	\$ 233.13
Fixed per Month over 200 Miles	\$ 103.54	\$ 233.13
Per Month Per Mile 0 - 8	\$ 12.73	\$ 10.60
Per Month Per Mile 8 - 25	\$ 12.73	\$ 11.55

Per Month Per Mile 25 – 50	\$ 12.73	\$ 30.34
Per Month Per Mile 50 – 200	\$ 12.73	\$ 34.70
Per Month Per Mile over 200	\$ 12.73	\$ 34.70

1

2 In addition, I find it ironic and inconsistent for Qwest, on the one hand, to be
3 criticizing AT&T for modeling a CLEC network that reflects CLEC investment
4 and instead suggesting that the CLEC network should be modeled with all leased
5 UNEs, when, on the other hand, Qwest has pressed for the elimination of UNE-P
6 because it “disincent” facilities investment and when Qwest is seeking the
7 elimination of leased transport UNEs in this proceeding. Moreover, Qwest’s
8 special access services are subject to pricing flexibility and Qwest can, and has,
9 increased those prices recently. A CLEC would be foolish to rely entirely on
10 Qwest UNE’s or special access for its network. Qwest’s claims simply ring
11 hollow.

12 **Q. AT LINES 12 THROUGH 16 OF PAGE 16, MR. BUCKLEY STATES THAT**
13 **AT&T’S TOOLS APPEAR TO OVERSTATE THE ANNUAL CHURN**
14 **QUANTITY. HE THEN MOVES DIRECTLY INTO A DISCUSSION**
15 **REGARDING AT&T’S APPROACH TO DETERMINING THE SMALL**
16 **BUSINESS PORTION OF THE MASS MARKET. DO YOU HAVE ANY**
17 **COMMENTS REGARDING MR. BUCKLEY’S TESTIMONY ON THESE**
18 **POINTS?**

19 **A.** First, Qwest has correctly identified an error regarding the calculation of the
20 churn quantity in the AT&T Tools. AT&T witness Baranowski’s Rebuttal

1 Testimony addresses this issue. However, I would like to address Mr. Buckley's
2 apparent linking of the churn quantity with the cross over between mass market
3 and enterprise services and the calculation of business lines in the model. With
4 regard to that portion of Mr. Buckley's testimony I would simply say that his
5 testimony makes no sense and I cannot provide the Commission with any
6 particular insight as to what Mr. Buckley's point might be on this issue. I can say,
7 however, that the AT&T Tools do not understate the number of business lines
8 attributable to the mass market.

9 **Q. PLEASE DESCRIBE AT&T'S POSITION ON QWEST'S CLAIM REGARDING**
10 **THE TOOLS TREATMENT OF BUSINESS LINES AND MR. BUCKLEY'S**
11 **PROPOSED ADJUSTMENT TO AT&T'S TOOLS.**

12 **A.** As I described above, the purpose of this proceeding is to assess whether the
13 CLEC is impaired in serving the mass market if unbundled switching is no longer
14 available as a UNE and the CLEC must provide local service using UNE-L. The
15 mass market is defined by the FCC as residential and small business customers. It
16 does not include Enterprise customers. The AT&T Tools, using its proposed
17 cross over point, properly excludes Enterprise customers from the analysis.

18 **Exhibit DD-13C** explains the details behind AT&T's calculation of the
19 distribution of lines by firms that is used to determine the amount of Enterprise
20 lines and demonstrates that AT&T's Tools' treatment of business lines is fully
21 consistent with the TRO.

1 Mr. Buckley proposes to override the exclusion of Enterprise lines in the AT&T
2 Tools. The effect of Mr. Buckley's proposal would be to add the Enterprise lines
3 to the residential and small business lines that the Tools currently uses for the
4 mass market analysis. The impact of Mr. Buckley's proposal would be a
5 lowering of the CLEC's cost, in addition to a substantial increase in potential
6 average revenue, thus decreasing or eliminating the modeled impairment.

7 This is precisely how Qwest has modeled the CLEC network in the CPRO. In the
8 CPRO Qwest makes no attempt to quantify mass-market lines. Instead, the
9 CPRO includes all business lines, treating Enterprise lines as though they were
10 mass market. Suffice it to say that Qwest's approach is contrary to fact and
11 common sense and, coupled with the other problems AT&T has identified with
12 the CPRO, substantially skews the impairment analysis.

13 Further, Qwest criticizes AT&T's crossover as being too high.⁹ However, if
14 Qwest's proposed 4:1 crossover were used in the business case analysis, it would
15 result in more lines being designated as Enterprise. It is disingenuous for Qwest
16 to argue, on the one hand, that no location with greater than four lines should be
17 considered as part of the mass-market and then to turn around and include all
18 Enterprise lines in its analysis.

19 In sum, Qwest claims regarding AT&T's Tools treatment of business lines should
20 be rejected.

⁹ For AT&T's response to this criticism, *see* the Rebuttal Testimony of Arleen M. Starr.

1 Q. ON PAGE 15 OF HIS RESPONSE TESTIMONY, MR. BUCKLEY ARGUES THAT
2 AT&T DEVIATES FROM ITS ADVOCACY IN THE COSTING DOCKET. HOW
3 DO YOU RESPOND TO THIS ASSERTION?

4 A. While Mr. Buckley makes a sweeping statement in this regard, he cites to only
5 one specific example, stating that AT&T is advocating a different structure
6 sharing percentage than it has proposed in UNE cost case proceedings. What Mr.
7 Buckley fails to mention is that AT&T's Tools use the sharing percentage that
8 was ordered by the Washington Commission in Qwest's latest UNE cost docket.
9 AT&T chose this approach rather than relitigating this issue in this proceeding. It
10 is as simple as that. I would also note that Qwest witness Copeland indicated his
11 agreement with this approach in response to discovery. Specifically, in response
12 to AT&T Data Request 02-146, Mr. Copeland stated that "Where ... inputs for an
13 efficient CLEC represent the same cost or function that the WUTC has ordered in
14 a related proceeding, it is common sense that such inputs should be the same."
15 Moreover, Qwest's criticism is inconsistent with its own advocacy on structure
16 sharing in the UNE cost cases, where it claims that much less sharing can take
17 place (thereby resulting in greater costs). Qwest's criticism is without merit and
18 should be rejected.

1 Q. MR. BUCKLEY ALSO TAKES ISSUE ON PAGE 16 OF HIS RESPONSE
2 TESTIMONY WITH THE CHURN DEFAULT VALUE USED IN AT&T TOOLS.
3 DO YOU HAVE A RESPONSE TO MR. BUCKLEY'S TESTIMONY ON THIS
4 ISSUE?

5 A. My direct testimony describes the basis for the churn default value used in AT&T
6 Tools.¹⁰ I would direct your attention, however, to AT&T witness Selwyn's
7 Rebuttal Testimony for a discussion regarding the fallacies surrounding Messrs.
8 Buckley's and Copeland's criticisms of AT&T's churn default value as well as
9 their testimony regarding Qwest's proposed churn rates.

10 Q. DO AT&T'S TOOLS ASSUME THAT A CLEC ENTERING THE MASS MARKET
11 WILL SERVE EVERY ILEC WIRE CENTER AS MR. BUCKLEY SUGGESTS ON
12 PAGE 18 OF HIS RESPONSE TESTIMONY?

13 A. In a general sense, yes; however, for good reason. AT&T proposes that
14 geographic markets be defined by LATA and not by MSAs as Qwest proposes
15 and certainly not by wire center. As such, AT&T's Tools look at the cost to serve
16 within the scope of AT&T's defined geographic market. Further, while Qwest
17 has appeared to narrow the wire centers at issue in this case, it has also stated that
18 if its MSA market definition is not adopted, it may expand its request. Therefore,
19 until such time as Qwest unequivocally removes segments of the market from its
20 petition for relief in this proceeding, the whole market must be considered at
21 issue.

¹⁰ Denney Direct at p. 52.

1 Moreover, as I discuss above the purpose of this proceeding and the analysis
2 being performed as part of this proceeding is to determine whether CLECs are
3 impaired in serving the mass market, not just certain segments of the mass
4 market, in the absence of access to unbundled local switching. Thus, AT&T's
5 approach is fully consistent with the purpose of this proceeding.

6 **Q. MR. BUCKLEY OPINES ON PAGE 18 THAT EVEN IF A CLEC DESIRES TO**
7 **SERVE ALL WIRE CENTERS, IT IS MORE REASONABLE TO EXPECT THAT**
8 **IT WOULD USE ENHANCED EXTENDED LINK OR LOOP TRANSPORT**
9 **COMBINATION. DO YOU AGREE WITH HIS TESTIMONY IN THIS REGARD?**

10 **A.** No, I do not. As AT&T witness Falcone pointed out in his Direct Testimony in
11 this proceeding, Enhanced Extended Links are not cost-effective for CLECs given
12 the use restrictions imposed by Qwest.¹¹

13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 **A.** Yes.

¹¹ Falcone Response at pp. 8-13.