

**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

ROBERT V. FALCONE

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")**

NETWORK AND OPERATIONAL IMPAIRMENT

February 20, 2004

1

I. INTRODUCTION

2 **Q. PLEASE STATE YOUR NAME.**

3 A. My name is Robert V. Falcone

4 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS**
5 **PROCEEDING?**

6 A. Yes; I have filed direct and response testimony.

7 **Q. WHAT IS THE PURPOSE OF THIS REBUTTAL TESTIMONY?**

8 A. The purpose of this testimony is to respond again to several of Qwest's witnesses,
9 namely Mr. Weber, Mr. Easton and Mr. Hubbard.

10 **Q. HOW IS YOUR REBUTTAL TESTIMONY ORGANIZED?**

11 A. I have broken the testimony into witness and subject categories. So again, I will
12 discuss Mr. Weber's testimony and the various subjects he addresses; then I will
13 move on to Mr. Easton and Mr. Hubbard.

14 II. MR. WEBER'S RESPONSE TESTIMONY

15 **Q. WHAT IS YOUR OVERALL IMPRESSION OF MR. WEBER'S**
16 **RESPONSE TESTIMONY?**

17 A. Mr. Weber's basic premise in responding to my testimony is that ILEC and CLEC
18 network architectures are allegedly performing the same functions such that
19 CLECs are at no "absolute cost disadvantage" when required to employ backhaul
20 networks or what Mr. Weber described as "CLEC access networks."¹ More
21 specifically, he claims that the ILEC interoffice network performs the same

¹ Joseph H. Weber Response Testimony at 1, ln. 18 & 11, ln. 11-14.

1 function as the CLEC backhaul network and consequently the CLEC's costs are
2 no different than the ILECs.²
3 Setting aside the fact that the ILEC's interoffice network cost is not even relevant
4 in this proceeding³ and that the efficient CLEC costs are, indeed, at issue as
5 demonstrated by the FCC's TRO Order and the testimony of AT&T's economic,
6 business model and cost witnesses, Mr. Weber's comparison of the ILEC
7 interoffice network and the CLEC backhaul network is like comparing apples-to-
8 oranges. It is misleading and inappropriate. A fairer comparison of network
9 equivalents would actually demonstrate the CLEC operational impairment.

10 **Q. PLEASE EXPLAIN WHY MR. WEBER'S COMPARISON IS AN APPLES-**
11 **TO-ORANGES COMPARISON.**

12 A. He compares "apples-to-oranges" because he confuses functional network
13 equivalents. That is, the definition of a loop is that part of the network which runs
14 from the customer premises to the switch. And the definition of interoffice
15 network facilities ("IOF" or "IO") is that portion of the network running between
16 switches. Mr. Weber attempts to compare the CLEC loop to the ILEC interoffice
17 network or "IO." Instead, he should compare real functional equivalents between
18 the networks so that he is comparing CLEC loops to ILEC loops and CLEC IOF
19 to ILEC IOF.

² *Id.*

³ TRO at ¶ 116 (citing 47 U.S.C. § 251(d)(2)(B) to conclude that the "impair" inquiry focuses on CLECs, not ILECs).

1 **Q. PLEASE DEFINE THE CLEC LOOP AND THE ILEC LOOP.**

2 A. As I explained in my direct testimony and depicted in Exhibit RVF-5 to that
3 testimony, the operational and economic barriers that the CLECs face involve the
4 collocation arrangements and the additional equipment and backhaul facilities that
5 the CLEC needs simply to connect a customer's loop to its switch. For Qwest,
6 this backhaul "equipment" is nothing more than a few feet of cross connection
7 wire on the main distribution frame. It is not, as Mr. Weber suggests, Qwest's
8 entire interoffice network. The pertinent "function" for both carriers is the
9 connection of the customer premises equipment to the switch. For Qwest, that is
10 the local loop running from the customer's network interface device ("NID") to
11 the Qwest switch in the central office. For the CLEC it amounts to all of the
12 additional equipment and facilities, and their associated cost, that takes the loop
13 from the CLEC collocation and backhauls it all the way to the distantly located
14 switch. This is the proper, like-for-like comparison that Mr. Weber should have
15 made.

16 **Q. MR. WEBER ESSENTIALLY CLAIMS THAT CLECS DO NOT HAVE**
17 **INTEROFFICE NETWORKS.⁴ IS THIS TRUE?**

18 A. No. Because the ILEC versus CLEC network architectures are different and
19 because the CLEC does not have the traffic volumes of the ILEC, the
20 "interoffice" portions of their respective interoffice networks are different.

⁴ Joseph H. Weber Response Testimony at 2, In. 14 (claiming that CLECs employing a single switch in a LATA do not require interoffice networks).

1 Nevertheless, both ILECs and CLECs have network “piece parts” that perform the
2 “function” of transporting calls from the switch where the loop terminates to the
3 local switch serving the called party.⁵ Here again, the CLEC’s architecture is
4 more likely than not to require significant transport of the call from the CLEC
5 switch to the called party. In fact, the most likely scenario for the path of the
6 CLEC “interoffice” network is for the CLEC to take the call from its switch,
7 across an interconnection trunk to the Point of Interconnection (“POI”) on the
8 ILEC’s network where the CLEC then pays the ILEC to transport the call through
9 to its termination point at the called party’s premises. That path of the CLEC
10 customer’s call on the ILEC network would likely take the call across tandem
11 switch, across the tandem transport and through the local switch to the called
12 party’s premises. This configuration is depicted in my **Exhibit RVF-22**, attached,
13 and the costs for such a call are contained in Qwest’s Exhibit A to its SGAT.

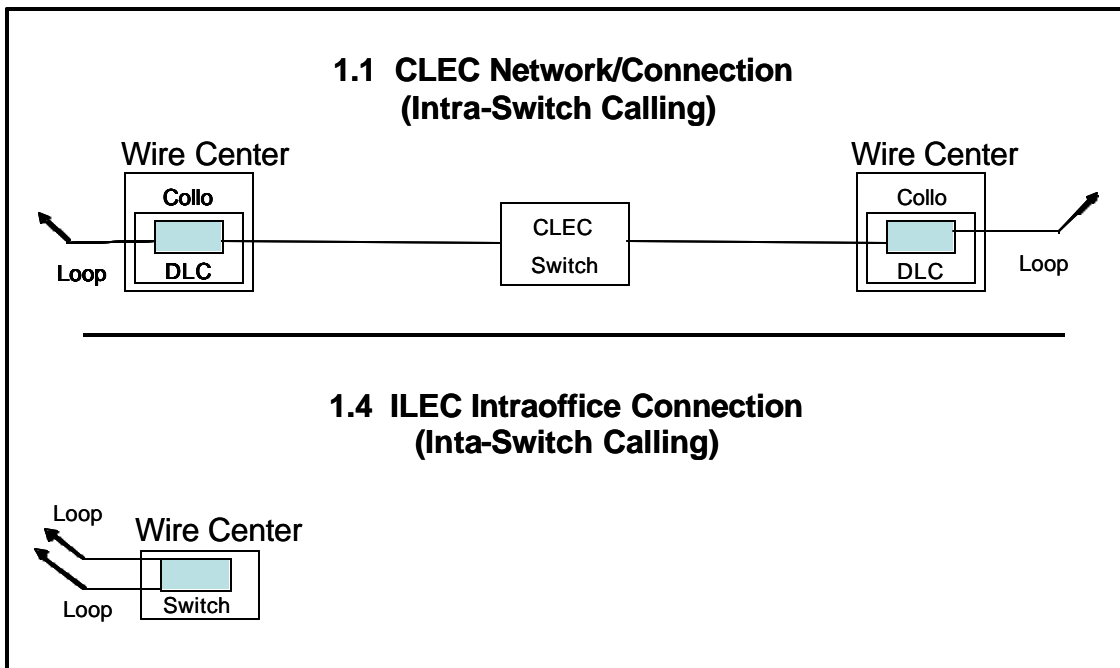
14 **Q. AM I CORRECT MR. WEBER’S FIGURE 1, “ILEC-CLEC NETWORK**
15 **COMPARISON,” IS INACCURATE AND MISLEADING?**

16 **A.** Yes, Figure 1 is very misleading. In Figure 1.1 of this Exhibit, “CLEC Network
17 Connection,” Mr. Weber depicts the CLEC’s loop network, misidentified as an
18 “IO” facility, which in truth is a CLEC loop. He has depicted this in such a way
19 as to give the impression that Figure 1.1 can be compared to Figure 2.1. This is
20 entirely misleading. In reality, by showing the loops of two different CLEC

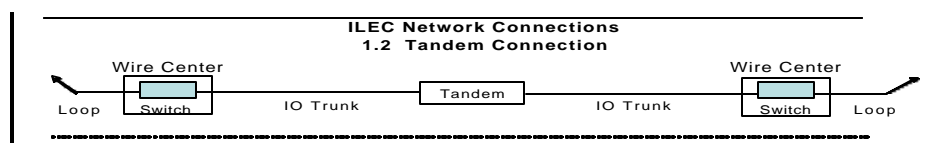
⁵ Mr. Weber’s analysis assumes that the CLEC will have only one switch. Yet, there AT&T’s model demonstrates that the efficient CLEC would employ two switches.

1 customers extending from the CLEC's collocation arrangements in two different
 2 central offices and ultimately connected to the CLEC's switch, what Mr. Weber
 3 has depicted is the equivalent function of an "intraoffice" connection for the ILEC
 4 customers served off the same switch in a single central office. Thus, the accurate
 5 comparison—reflected in my Figure A—of the CLEC Figure 1.1 to the ILEC
 6 equivalent in network functionality is between Figure 1.1 for the CLEC and
 7 Figure 1.4 for the ILEC.

8 **FIGURE A**



19 **Q. WHAT DOES MR. WEBER'S FIGURE 1.2, BELOW, IN FACT, SHOW?**



1 A. Figures 1.2 “ILEC Network Connection – Tandem” represent Qwest’s interoffice
2 transport employed when connecting two Qwest callers located in different areas
3 and served by different central offices that do not have a direct trunk group
4 between them. This shows a call originated by a Qwest customer in one central
5 office getting transported, on the interoffice network, to the second central office
6 where the call will be completed to called party. Note, that in Figure 1.1, the
7 connection between the central office collocation and the CLEC switch is
8 mislabeled “IO Facility” as opposed to the connections in Figures 1.2 and 1.3,
9 which are labeled “IO Trunks.” The alleged “IO Facility” in Figure 1.1 is nothing
10 more than an extremely long “extension cord” used to extend the customers’
11 loops to the CLEC switch; they are more accurately a part of the CLEC loop or
12 backhaul network rather than an “interoffice network.” In contrast, the IO Trunk
13 in Figure 1.2 is used for *transporting traffic* from the call originator to the called
14 party between two Qwest switches. Also note that in Mr. Weber’s Figure 1.2 the
15 customer loops are connected directly to the Qwest switch. What Mr. Weber fails
16 to depict in his Figure 1.1 are the IO Trunks that the CLEC switch will also
17 require so that it can route the traffic originated by its customers to the
18 terminating location of the called party, when that party is not another one of the
19 CLEC’s customers served off the CLEC’s switch. That call path is more
20 accurately depicted in my Exhibit RVF-22, discussed above. The bottom-line is
21 that the CLEC also employs interoffice facilities as shown in Figures 1.2 and 1.3
22 to carry the traffic, which is originated on the extended loops shown in Figure 1.1,

1 from the CLEC switch to the called party. Mr. Weber has failed to compare like
2 functions and is instead comparing loop-type functions to interoffice transport
3 functions—an apples-to-oranges comparison.

4 **Q. WHAT DOES MR. WEBER'S FIGURE 1.3 DEPICT?**



7 A. This figure depicts a call being routed from one ILEC switch to the terminating
8 ILEC switch where there is a direct trunk group between the two switches. In his
9 testimony, Mr. Weber states “[i]f the connection involves end-users served by
10 different switches with a high community of interest, there may be a direct
11 connection between the end offices, as shown in Section 1.3 of Figure 1.”⁶ That
12 said, initially the most likely carrier to enjoy sufficient traffic volumes between
13 local switches to warrant directly connecting those offices is the ILEC. The
14 equivalent function in the CLEC network maybe found in the 512 CCS
15 requirement. That is, Qwest’s SGAT states:

16 7.2.2.1.3 When either Party utilizes the other Party’s Tandem
17 Office Switch for the exchange of local traffic, where there is a
18 DS1’s worth of traffic (512 CCS) between the originating Party’s
19 End Office Switch delivered to the other Party’s Tandem Office
20 Switch for delivery to one of the other Party’s End Office Switches,
21 the originating Party will order a direct trunk group to the other
22 Party’s End Office Switch. To the extent that CLEC has
23 established a Collocation arrangement at a Qwest End Office
24 Switch location, and has available capacity, CLEC may, at its sole
25 option, provide two-way direct trunk facilities from that End Office
26 Switch to CLEC’s Switch.⁷

⁶ *Id.* at 7, lns. 4–6.

⁷ WA SGAT 8th Rev. at 59 (June 25, 2002).

1
2 While the CLEC does not necessarily have this volume initially and therefore it is
3 interconnected to the ILEC tandem for the exchange of traffic, what this provision
4 requires is that as the CLEC has a DS1's worth of traffic running through the
5 tandem to the specific local switch, the CLEC must build a direct trunk group to
6 that local switch. This interconnection arrangement will essentially be the same
7 as the IO Trunk interconnecting the two central offices depicted in Figure 1.3.
8 See **Exhibit RVF-23**, attached and depicting the appropriate comparison.

9 **Q. DO YOU HAVE ANY OTHER THOUGHTS RELATED TO WHAT**
10 **FIGURE 1.4 OF MR. WEBER'S DIAGRAM DEPICTS?**

11 A. Figure 1.4, which represents an intra-switch call, is an ideal example to illustrate
12 the backhaul handicap that the CLECs have when compared to the Qwest network
13 architecture for its loops. In this figure both customers are served by the same
14 Qwest switch, therefore, when one customer calls the other, the switch can
15 complete the call over each of the customer's loop facilities without using any
16 interoffice trunk facilities. It is important to note that because all CLEC loops
17 must be backhauled to their distantly located switch, as shown in Figure 1.1, the
18 economic calling pattern shown in Figure 1.4 is available only to Qwest.

1 **Q. WOULD THE INSTALLATION OF A REMOTE SWITCHING UNIT**
2 **(“RSU”) ALLOW THE CLEC TO ROUTE ITS TRAFFIC AS SHOWN IN**
3 **FIGURE 1.4?**

4 A. Yes, however, as I explain on pages 15 through 17 of my response testimony, the
5 installation of a collocated RSU in Qwest’s central office is typically not a
6 practical option for the CLECs.

7 **Q. DOES THIS INTRA-SWITCH TYPE OF CALL DEPICTED IN MR.**
8 **WEBER’S FIGURE 1.4 REPRESENT A SMALL PERCENTAGE OF THE**
9 **ILEC TRAFFIC?**

10 A. No, not necessarily. The percent of intra-switch ILEC traffic is going to vary by
11 switch. Because of the concentration of people and businesses in large
12 metropolitan areas, the switches tend to serve a smaller geographic area and
13 therefore the percent of intra-switch calling tends to be lower than in suburban
14 and rural areas. Where the ILEC switches serve a larger geographic area, the
15 percentage of intra-switch traffic can be quite high. Logically this makes sense.
16 People, especially mass market customers, call their neighbors, their children’s
17 friends, local doctors, dentists, pizza shops, etc. In many cases these people and
18 businesses are all served by the same switch, thereby driving up the percent of
19 intra-switch traffic that the switch serves.

20 In contrast, CLECs may require many years to employ the same level of intra-
21 switch calling because they have far fewer customers, and thus, far fewer CLEC
22 customer-to-CLEC customer calls. Most of the calls from a CLEC customer will

1 be to an ILEC customer initially, with the need to deliver the call to the ILEC
2 switch. But even if CLECs acquired 100 % of the customers, they would still be
3 disadvantaged by the need for backhaul networks in their respective loops.

4 **Q. WHILE MR. WEBER ADMITS THAT THE CLEC'S LOOP OR**
5 **BACKHAUL ARCHITECTURE IS COSTLY,⁸ HE CLAIMS THAT A**
6 **CLEC CAN ROUTE ALL OF ITS TRAFFIC THROUGH A SINGLE**
7 **TRUNK GROUP TO QWEST'S TANDEM AND NOT REQUIRE AN**
8 **INTEROFFICE NETWORK.⁹ DO YOU AGREE?**

9 A. A CLEC will seek to interconnect with Qwest in the most efficient manner and
10 initially this interconnection will be at the tandem, but Mr. Weber paints an overly
11 simplistic and unrealistic view of network architectures and call routing. First, it
12 is critical to understand that regardless of where the CLEC interconnects, the
13 CLEC customer's phone call must ultimately get to the central office switch
14 where the called party's loop terminates. Even in cases where the CLEC's switch
15 is interconnected with Qwest at its tandem, Qwest does not route the CLEC's
16 calls to the terminating end office local switches for free. As previously noted,
17 for each call that the CLEC routes to the Qwest tandem, in addition to the per
18 minute of use recurring charge for the end office termination, Qwest charges the
19 CLEC for tandem switching on a per minute of use basis and for tandem
20 transport. The tandem transport consists of two rate elements, a "fixed" rate that

⁸ Joseph H. Weber Response Testimony at 2, Ins. 4 – 5.

⁹ *Id.*

1 is assessed on a minute of use (“MOU”) basis and a “mileage” rate that is
2 assessed per minute, per mile. The mileage is based on the distance between the
3 tandem switch and the terminating central office.

4 **Q. PLEASE PROVIDE AN EXAMPLE OF HOW THESE RATES APPLY.**

5 A. For this example I am going to use the following assumptions: (a) the CLEC is
6 interconnected with Qwest’s tandem only, (b) the central office where the CLEC
7 customer’s call needs to terminate is 30 miles away from the Qwest tandem and
8 (c) the call lasts for 30 minutes. In this scenario the CLEC would have to pay
9 Qwest the following for the routing and termination of this call:¹⁰

10 End Office Call Termination (per MOU) - $\$0.001178 \times 30 \text{ MOUs} = \0.03534 .

11 Tandem Switching (per MOU) - $\$0.00069 \times 30 \text{ MOUs} = \0.0207

12 Tandem Transmission Fixed (per MOU) - $\$0.00026 \times 30 \text{ MOUs} = \0.0078

13 Tandem Transport Mileage (per MOU, per mile) - $\$0.00001 \times 30 \text{ miles} \times 30$
14 minutes = $\$0.009$.

15 The total cost for the CLEC to complete this local call to Qwest would be:

16 $\$0.03534 + \$0.0207 + \$0.0078 + \$0.009 = \mathbf{\$0.07284}$

17 **Q. DOES THE CLEC HAVE AN “IO” NETWORK WHEN THE CALL**
18 **TERMINATES ON THE CLEC NETWORK?**

19 A. Yes, clearly when the calling party calls another CLEC customer, the call must
20 make its way through the CLEC network from the switch to the called party.

21 Depending upon the CLEC’s network configuration, the call may go to another

¹⁰ All rates were obtained from Qwest’s SGAT, Exhibit A.

1 CLEC switch; if it does not, the call function is routed more akin to the ILEC
2 intraoffice call, which does not employ interoffice facilities either. In contrast to
3 the ILEC, however, the call must again traverse the CLEC's extensive backhaul
4 facilities to the collocation and ultimately to the called party.

5 **Q. AGAIN, MR. WEBER DISCUSSES THE ARBITRATION ISSUE**
6 **REGARDING QWEST PAYING A TANDEM RATE WHEN USING THE**
7 **CLEC SWITCH. HAS HE ACCURATELY PORTRAYED THE ISSUE?**

8 A. No. Mr. Weber states "AT&T has claimed equivalence between its local switches
9 and the ILEC tandems in another proceeding."¹¹ AT&T did not "claim
10 equivalence" between its switch and Qwest's tandem. Rather, AT&T
11 demonstrated, consistent with the FCC's payment rule,¹² that its switches were
12 "capable" of covering a comparable geographic area to Qwest's tandems thus
13 requiring Qwest to pay a tandem rate for its use of AT&T's switching. Qwest,
14 applying a TRO-type standard¹³ and not the FCC's payment rule, argued that
15 Qwest would only pay the tandem rate when AT&T's switch actually "serves a
16 geography comparable to Qwest's tandem."¹⁴ Mr. Weber ignores that Qwest just
17 does not want to pay the appropriate rate for its use of the CLECs' switches, but

¹¹ Joseph H. Weber Response Testimony at 8, Ins. 1 – 2.

¹² 47 CFR § 51.711(a)(3).

¹³ In the TRO proceeding, the FCC looks to what the CLEC is actually doing, operational impairment and barriers to entry (TRO ¶ 84)—not whether the CLEC switch could potentially cover a comparable geographic area for purposes of billing.

¹⁴ *In the Matter of the Petition for Arbitration of AT&T Communications of the Pacific Northwest and TCG Seattle with Qwest Corporation Pursuant to 47 USC § 252(b)*, Docket No. UT-03305, Direct Testimony of Thomas R. Freeberg at 9, Ins. 17 – 18 & Exhibit TRF-2 (exhibit requiring CLECs to have loops facilities into 80 % of the rate centers served by the Qwest tandem under consideration); *see also*, Rebuttal Testimony of Thomas R. Freeberg at 3, In.s 18 – 23.

1 that issue is not particularly germane here as it has nothing to do with operational
2 impairment and barriers to entry.

3 **Q. DO ANY OF QWEST'S OTHER WITNESSES MAKE THE SAME**
4 **INAPPROPRIATE COMPARISON BETWEEN THE CLECS' LOOP**
5 **ARCHITECTURE AND QWEST'S INTEROFFICE ARCHITECTURE?**

6 A. Yes. The testimony of Ms. Torrance makes this same analogy on page 6 of her
7 testimony. My response comments to the testimony of Mr. Weber regarding the
8 misleading nature of this comparison also apply to the statements made by Ms.
9 Torrance in her testimony on this issue.

10 **Q. OTHER THAN HIS INAPPROPRIATE COMPARISONS, DO YOU HAVE**
11 **ANY OTHER CONCERNS WITH MR. WEBER'S RESPONSE**
12 **TESTIMONY?**

13 A. Yes. Mr. Weber states that the CLEC's collocated DLC equipment "performs
14 many of the most significant functions that are performed by the ILEC switch
15 when it terminates an analog line." Whether Mr. Weber intended it or not, this
16 statement is very misleading. The fact is that without the switch the DLC cannot
17 perform the most critical function, digit translation and call processing. As I
18 describe in my direct testimony the only functionality of the DLC for the CLEC is
19 to get the loop in a state (*i.e.*, digitized and concentrated) so that it can be
20 extended over backhaul facilities to the CLEC's distantly located switch. It does
21 not replace the switching function.

1 **Q. MR. WEBER COMPLAINS THAT “AS THE CLEC TRAFFIC GROWS**
2 **AND MORE TRAFFIC IS INTER-NETWORK, THE ILEC COST OF**
3 **PROVIDING SERVICE GROWS.”¹⁵ DO YOU AGREE WITH HIM?**

4 A. Well, yes, but not for the reasons Mr. Weber probably believes. Today when a
5 CLEC uses UNE-P, the CLEC is using the various network elements of the Qwest
6 installed network and is compensating Qwest for these elements. In addition to
7 the unbundled local switch these network elements include unbundled common
8 transport¹⁶, unbundled signaling and databases and often unbundled operator
9 services, among other things. If the CLECs are required to migrate this traffic off
10 of the Qwest unbundled switch, as the result of a finding of non-impairment, three
11 things will occur that will impact Qwest’s costs and revenues. First assuming
12 CLECs can find some way to economically serve the mass market, Qwest will be
13 left with stranded switch and common transport capacity as more and more
14 customers leave the Qwest network and connect to the CLECs’ networks.
15 Second, Qwest will lose the revenues it was collecting from the CLECs for the
16 use of the unbundled switch, transport and signaling networks. Finally, Qwest will
17 have to expand its tandem transport network to allow it to exchange traffic with
18 the CLECs. Yet, Mr. Weber has no right to complain about these additional costs
19 as it is Qwest who is pushing this agenda by seeking relief from its obligation to
20 provide local switching on an unbundled basis.

¹⁵ Joseph H. Weber Response Testimony at 8, Ins. 11 –12.

¹⁶ Common transport is also known as shared transport

1 **III. MR. EASTON'S RESPONSE TESTIMONY**

2 **Q. MR. EASTON STATES THAT ROLLING ACCESS TO UNBUNDLED**
3 **SWITCHING IS NOT REQUIRED FOR THOSE AREAS WHERE CLECS**
4 **ARE NOT IMPAIRED IN THE ABSENCE OF UNBUNDLED**
5 **SWITCHING.¹⁷ WHAT IS YOUR REACTION TO THIS STATEMENT?**

6 A. Rolling access in this case essentially requires that where a State finds
7 impairment, the CLEC may obtain access to unbundled switching on a transitional
8 basis under certain circumstances.¹⁸ That said, rolling access is an issue more
9 appropriately discussed with respect to Batch Hot Cut because Mr. Easton has
10 referred the parties to that process for Qwest's transition planning.¹⁹ Therefore, I
11 will address Mr. Easton's claims in my Batch Hot Cut and Migration Process
12 testimony rather than addressing them both here and in that testimony.

13 **IV. MR. HUBBARD'S RESPONSE TESTIMONY**

14 **Q. WHAT IS YOUR OVERALL IMPRESSION OF MR. WEBER'S**
15 **RESPONSE TESTIMONY?**

16 A. Mr. Hubbard, while purporting to respond to my collocation concerns, actually
17 does not respond to any of them. Instead he summarily asserts that filed
18 interconnection agreements and the SGAT somehow address any collocations
19 issues the CLEC parties have raised.²⁰ He then asserts that my concern over

¹⁷ William R. Easton Response Testimony at 4, lns. 1 –2 & 9, lns. 13 – 18.

¹⁸ See TRO at ¶ 521.

¹⁹ William R. Easton Direct Testimony at 8, lns. 2 – 15.

²⁰ Robert J. Hubbard Response Testimony at 5, lns.1 – 11.

1 IDLC is a veiled attempt to acquire Electronic Loop Provisioning (“ELP”).²¹
2 Again, he does not address the real issues with IDLC, but rather goes off onto
3 topics he prefers. I can only conclude that my concerns are valid and he cannot
4 address them.

5 **Q. MR. HUBBARD DOES ASSERT THAT QWEST OFFERS**
6 **“UNBUNDLING OPTIONS FOR CIRCUITS OPERATING OVER IDLC”²²**
7 **AND THAT “MR. PAPPAS EXPLAINS THESE OPTIONS IN GREATER**
8 **DETAIL IN HIS BATCH HOT CUT TESTIMONY.” DO YOU HAVE A**
9 **RESPONSE TO MR. PAPPAS’ IDLC DISCUSSION THAT IS RELEVANT**
10 **HERE?**

11 A. Though there are other technical solutions available to the IDLC unbundling
12 problem the only unbundling options that Qwest offers the CLECs is to physically
13 move the loop to an alternative transport medium such as copper or UDLC loops.
14 Yet, Qwest has not given any indication as to whether it has sufficient spare non-
15 IDLC facilities at a central office level to accommodate the migrations that will
16 be necessary. Per the testimony of Mr. Pappas, the other “alternatives” offered by
17 Qwest, specifically hair-pinning and INA di-groups, are only temporary solutions
18 until a more permanent solution can be implemented.²³ Each of the temporary
19 solutions will only serve to create more human touch points and disruption to the

²¹ *Id.* at 7, Ins. 10 – 20.

²² *Id.* at 8, Ins. 14 – 17.

²³ *See* Dennis L. Pappas Direct Batch Hot cut Testimony at 83; (“Each of these alternatives offers an interim process until a more permanent solution can be implemented – such as, adding a Universal shelf to the existing pair gain system.”).

1 CLEC's customer service to migrate them to the temporary solution and them to
2 the permanent solution when available.

3 **Q. DO YOU HAVE ANY OTHER CONCERNS WITH MR. HUBBARD'S**
4 **TESTIMONY OR CONCLUDING REMARKS?**

5 A. Yes. The primary thrust of Qwest's response to the CLEC testimony is
6 essentially that "investment does not create impairment,"²⁴ that is, both the ILEC
7 and the CLEC must invest in their respective networks and therefore the CLEC is
8 not impaired. This argument misses the real point of the impairment analysis and
9 it ignores a very important difference between CLECs and ILECs costs. The
10 ILECs networks were not created through expanding investment resulting from
11 revenue won by high service quality and customer satisfaction over-time; rather,
12 the ubiquitous ILEC network was essentially awarded by monopoly franchise to
13 the incumbents with guaranteed rates of return. CLECs, on the other hand, must
14 compete for every single customer and attempt to avoid customer churn long
15 enough to amass enough capital to invest in their respective networks.

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

17 A. Yes, it does.

²⁴ *Id.* at 5, lns. 20-21.