

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation  
Concerning the Status of Competition and  
Impact of the FCC's Triennial Review  
Remand Order on the Competitive  
Telecommunications Environment in  
Washington State.

DOCKET NO. UT-053025

QWEST'S ANSWER TO JOINT  
CLECS' PETITION FOR  
ADMINISTRATIVE REVIEW OF  
ORDER NO. 3

1 Qwest Corporation ("Qwest") hereby files its answer to the Joint CLECs' Petition for Administrative Review of Order No. 3, *Initial Order Requiring Disclosure of Additional Information* ("Initial Order"). Joint CLECs take exception to the findings in Order No. 3 that Qwest's use of 2003 data was appropriate to develop its initial list of wire centers that meet the Federal Communications Commission's ("FCC") criteria for non-impairment. CLECs raise no new arguments in support of their position that the data underlying Qwest's first and only non-impaired wire center list should be updated from the 2003 data that formed the basis for that list. Qwest respectfully requests that the Commission affirm the findings of the Initial Order as they pertain to the use of 2003 data as the basis for Qwest's non-impaired wire center list.

2 As noted above, the non-impaired wire center list which is the subject of this proceeding is the original *and only* list Qwest has submitted to the FCC denoting those wire centers that meet the FCC's non-impairment criteria to qualify for limited unbundling relief. Qwest's use of December 2003 ARMIS data is consistent with the data the FCC analyzed in making its non-impairment decisions in the TRRO. This December 2003 ARMIS data is also the data that was available when the FCC directed Qwest and the other RBOCs to submit the list of wire centers that meet the non-impairment criteria, which Qwest did in February 2005. Consequently, the use of December 2003 data is both appropriate and consistent with the FCC's intent to base determinations on "an objective set of data that incumbent LECs already have created for other regulatory purposes." *TRRO Paragraph 105*.

3 The Joint CLECs quote from a Michigan Commission decision last September which evidently agreed with their argument regarding use of December 2004 data. However, that decision is not persuasive, nor representative of the decisions rendered thus far by other state commissions. For example, the Texas Commission affirmed the use of December 2003 ARMIS 43-08 access line data by AT&T Texas in its non-impairment analysis. The Texas Commission found in its investigation that "the method used by AT&T Texas for determining business line counts is consistent with the FCC's instructions for reporting business line counts for ILEC wire centers."<sup>1</sup> Similarly, in other state TRRO wire center non-impairment review proceedings, the California, Illinois and Indiana commissions each approved SBC's wire center non-impairment lists – all of which were based on December 2003 access line data.<sup>2</sup>

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<sup>1</sup> *Post-Interconnection Dispute Resolution Proceeding Regarding Wire Center UNE Declassification*, PUC Docket No. 31303, Order Approving Methodology to Determine AT&T Texas Wire Centers which are Non-Impaired, Texas PUC (issued April 7, 2006), at p. 29.

<sup>2</sup> *Application of Pacific Bell Telephone Company, d/b/a SBC California for Generic Proceeding to Implement Changes in Federal Unbundling Rules Under Sections 251 and 252 of the Telecommunications Act of 1996.*, Application 05-07-024, December 06-01-143, Cal. PUC (adopted January 26, 2006), at pp. 10-11 (discussing the appropriate business line counts, without specifically accepting 2003 data, but without ordering additional data beyond what SBC already provided); Arbitration Decision, *Petition for Arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 with*

Although the commission orders did not specifically include language endorsing the December 2003 data vintage, neither was SBC ordered to provide updated access line counts.

- 4 For all of the reasons noted above, Qwest respectfully requests that the Commission deny the Joint CLEC's Petition for Administrative Review and affirm the findings in the Initial Order regarding the appropriateness of Qwest's use of 2003 ARMIS data as a basis for its original non-impaired wire center list.

DATED this 22nd day of May, 2006.

QWEST

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*Illinois Bell Telephone Company to Amend Existing Interconnection Agreements to Incorporate the Triennial Review Order and the Triennial Review Remand Order*, Ill. Commerce Com'n., ICC Docket No. 05-0442 (Nov. 2, 2005), at p. 30 (in which the Commission found that SBC's business line count methodology was consistent with the FCC methodology and data used by the FCC, without making a determination specifically on the vintage of the data); see also Direct Testimony of Carol A. Chapman in *Petition for Arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 with Illinois Bell Telephone Company to Amend Existing Interconnection Agreements to Incorporate the Triennial Review Order and the Triennial Review Remand Order*, p. 38, lines 889 through 898 (where SBC clearly states that 2003 ARMIS data was the data provided to the FCC). Ms. Chapman's direct testimony can be found on the Illinois Commerce Commission e-docket website line: <http://eweb.icc.state.il.us/e%2Ddocket/> [browse docket function with docket 05-0442, SBC Testimony filed 9/6/05 at 11:22 a.m.]; *In the Matter of the Indiana Utility Regulatory Commission's Investigation of Issues Related to the Implementation of the Federal Communications Commission's Triennial Review Remand Order and the Remaining Portions of the Triennial Review Order*, Cause No. 42857, Issue 3, Ind. Utility Reg'y. Com'n (approved January 11, 2006), at pp. 15-16.