

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

**In the Matter of the Petition for Arbitration of
an Interconnection Agreement Between
CHARTER FIBERLINK WA-CCVII, LLC.
and QWEST CORPORATION Pursuant to 47
U.S.C. Section 252 (b)**

DOCKET NO. UT-083041

DIRECT TESTIMONY OF WILLIAM R. EASTON

QWEST CORPORATION

(Disputed Issue Nos. 10, 11, 13, 14, 15, 16 and 18)

OCTOBER 8, 2008

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1

I. IDENTIFICATION OF WITNESS

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS**
3 **ADDRESS.**

4 A. My name is William R. Easton. My business address is 1600 7th Avenue, Seattle
5 Washington. I am employed as Director – Wholesale Advocacy. I am testifying on
6 behalf of Qwest Corporation (“Qwest”).

7

8 **Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR EDUCATIONAL**
9 **BACKGROUND AND TELEPHONE COMPANY EXPERIENCE.**

10 A. I graduated from Stanford University in 1975, earning a Bachelor of Arts degree.
11 In 1980, I received a Masters of Business Administration from the University of
12 Washington. In addition, I am a Certified Management Accountant.

13

14 I began working for Pacific Northwest Bell in 1980, and have held a series of jobs
15 in financial management with U S WEST, and now with Qwest, including staff
16 positions in the Treasury and Network organizations. From 1996 through 1998, I
17 was Director – Capital Recovery. In this role I negotiated depreciation rates with
18 state commission and FCC staffs and testified in various regulatory proceedings.
19 From 1998 until 2001 I was a Director of Wholesale Finance, responsible for the
20 management of Wholesale revenue streams from a financial perspective. In this
21 capacity I worked closely with the Product Management organization on their

1 product offerings and projections of revenue. In October of 2001 I moved from
2 Wholesale Finance to the Wholesale Advocacy group, where I am currently
3 responsible for advocacy related to Wholesale products and services. In this role I
4 work extensively with the Product Management, Network and Costing
5 organizations.

6
7 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN WASHINGTON?**

8 A. Yes I have. I testified in Docket Numbers UT-940641, UT-950200, UT-951425,
9 UT-960347, UT-003013 (Part D), UT-033035, UT-033044, UT-043045 and UT-
10 063006.

11
12 **II. PURPOSE OF TESTIMONY**

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of my testimony is to explain Qwest's positions, and the regulatory
15 policies underlying those positions, as they relate to certain disputed issues between
16 the parties. My testimony will show that the Qwest position on these issues seeks
17 to strike a balance between meeting the interconnection needs of Charter Fiberlink
18 WA-CCVII, LLC ("Charter"), while at the same time ensuring that the services,
19 terms and conditions in the agreement comply with the governing law and are
20 technically feasible. Specifically, my testimony will address the following issues
21 from the Matrix of Unresolved Issues filed by Charter in this arbitration:

1 (EAS/Local traffic), IntraLATA LEC Toll and Jointly Provided Switched
2 Access traffic. Intercarrier traffic exchange will be mutual and reciprocal
3 and all traffic exchanged between the Parties must be provisioned pursuant
4 to this Agreement. A Party that has interconnected or gained access under
5 sections 251 (a) (1), 251 (c)(2), or 251 (c)(3) of the Act, may offer
6 information services through the same arrangement, so long as it is
7 offering Telecommunications Services through the same arrangement(s)
8 as well. Enhanced or information service providers (providers or
9 "Information Services" as that term is defined in 47 U.S.C. § 153 (20))
10 that do not also provide domestic or international telecommunications are
11 not Telecommunications Carriers as defined by the Act and thus may not
12 interconnect under this Agreement. Qwest will provide Interconnection at
13 any Technically Feasible point within its network, including but not
14 limited to; (i) the Line Side of a local Switch, (ii) the Trunk Side of a local
15 Switch, (iii) the trunk connection points for a Tandem Switch, (iv) Central
16 Office Cross Connection points, (v) out-of-band Signaling Transfer Points
17 necessary to exchange traffic at these points and access call-related
18 databases, and (vi) points of access to Unbundled Network Elements.
19 "Interconnection" is as described in the Act and refers, in this Section of
20 the Agreement, to the connection between networks for the purpose of
21 transmission and routing of Telephone Exchange Service traffic and
22 IntraLATA LEC Toll traffic at points (ii) and (iii) described above.
23 Interconnection, which Qwest currently names "Local Interconnection
24 Service" (LIS), is provided for the purpose of connecting End Office
25 Switches to End Office Switches or End Office Switches to local or
26 Access Tandem Switches for the exchange of Exchange Service
27 (EAS/Local traffic); or End Office Switches to Access Tandem Switches
28 for the exchange of IntraLATA LEC Toll or Jointly Provided Switched
29 Access traffic. Qwest Tandem Switch to CLEC Tandem Switch
30 connections will be provided where Technically Feasible. New or
31 continued Qwest local Tandem Switch to Qwest Access Tandem Switch
32 and Qwest Access Tandem Switch to Qwest Access Tandem Switch
33 connections are not required where Qwest can demonstrate that such
34 connections present a risk of Switch exhaust and that Qwest does not
35 make similar use of its network to transport the local calls of its own or
36 any Affiliate's End User Customers.

37
38
39 **Q. WHAT CHANGES IS CHARTER PROPOSING TO THE SECTION 7.1.1**
40 **LANGUAGE?**

1 A. Charter proposes to modify the last sentence of the Qwest language with the
2 following highlighted changes:

3

4 New or continued Qwest local Tandem Switch to Qwest Access Tandem
5 Switch and Qwest Access Tandem Switch to Qwest Access Tandem
6 Switch connections are not required where Qwest ~~can~~ **has demonstrated to**
7 **the Commission, and the Commission has determined in accordance**
8 **with 47 CFR 51.305(e),** that such connections present an **imminent** risk
9 of Switch exhaust, and that Qwest does not make similar use of its
10 network to transport the local calls of its own, or any Affiliate's, **or any**
11 **other LEC's End User Customers. Disputes arising under this Section**
12 **7 shall be raised, and resolved, pursuant to the Dispute Resolution**
13 **provisions of this Agreement.**
14

15 **Q. WHY IS QWEST OPPOSED TO THE PROPOSED CHANGES?**

16 A. Qwest has the right to deny interconnection at particular points if it is not
17 technically feasible. Similarly, Qwest has the right to reject requests for
18 connections between Qwest tandem switches where such connections would risk
19 switch exhaust. Admittedly, Charter may dispute Qwest's claims of technical
20 infeasibility or switch exhaust. However, the proper order of events is for Charter
21 to request an interconnection point or switch connection, for Qwest to determine
22 whether to accept or reject the request, and for any dispute to be negotiated and/or
23 submitted to the Commission for resolution pursuant to the dispute resolution
24 provisions of the ICA.

25

26 Charter's proposed language inappropriately puts the Commission in the position of
27 micromanaging Qwest's network. Qwest has the right and responsibility to
28 monitor, engineer and manage its network. This necessarily means that Qwest is in

1 the best position to make the first determination whether an interconnection point or
2 connection between switches is technically feasible. If Qwest and Charter cannot
3 resolve any dispute through negotiations, either party can then request that the
4 Commission resolve the dispute. Charter's position is unreasonable and should be
5 rejected.

6
7 **Q. IS THE SWITCH EXHAUST LANGUAGE THE SAME LANGUAGE THAT**
8 **APPEARS IN QWEST'S CONTRACT TEMPLATE?**

9 A. Yes. This is the same language that is in the standard template. It was developed
10 by consensus of the parties during the 271 workshops.

11
12 **Q. HAS THE ISSUE OF SWITCH EXHAUST BEEN A PROBLEM THAT**
13 **REQUIRED COMMISSION INVOLVEMENT IN THE PAST?**

14 A. No. The interconnecting parties have been able to resolve tandem exhaust issues
15 when they have arisen in the past. I am not aware of any situations in which
16 CLECs have asked that the Commission become involved when interconnection at
17 a tandem has been denied due to exhaust issues.

18
19 **Q. IS CHARTER'S ADDED SENTENCE REGARDING DISPUTES**
20 **NECESSARY?**

21 A. No. The undisputed language of Section 5.18.1 of the ICA makes clear that the
22 dispute resolution provisions apply to "any dispute, claim or controversy arising out
23 of, or relating to, this Agreement."

1 **IV. DISPUTED ISSUE NO. 11: METHODS OF INTERCONNECTION**

2 **Q. PLEASE EXPLAIN DISPUTED ISSUE NO 11.**

3 A. Issue No. 11 concerns Sections 7.1.2 and 7.1.2.4 of the ICA which set forth the
4 methods by which Charter can interconnect with Qwest. Charter proposes to alter
5 Qwest's standard interconnection options by inappropriately changing the available
6 options.

7
8 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR SECTION 7.1.2?**

9 A. Qwest is proposing the following language:

10 7.1.2 The Parties will negotiate the specific arrangements used to
11 interconnect their respective networks. CLEC shall establish at least one
12 (1) physical Point of Interconnection in Qwest territory in each LATA
13 CLEC has local End User Customers. CLEC represents and warrants that
14 it is serving End User Customers physically located within the areas
15 associated with the NPA-NXX codes assigned to those End User
16 Customers. The Parties shall establish, at least one (1) of the following
17 Interconnection arrangements, at any Technically Feasible point: (1) a
18 Qwest-provided Entrance Facility; (2) Collocation; (3) Mid-Span Meet
19 POI facilities; or (4) other Technically Feasible methods of
20 Interconnection via the Bona Fide Request (BFR) process unless a
21 particular arrangement has been previously provided to a third party, or is
22 offered by Qwest as a product.

23
24

25 **Q. WHAT LANGUAGE IS CHARTER PROPOSING?**

26 A. Charter proposes to modify the Qwest language with the following highlighted
27 changes:

28

29 7.1.2 The Parties will negotiate the specific arrangements used to
30 interconnect their respective networks. CLEC shall **have the right to**

1 establish one (1) **single** physical Point of Interconnection (“**POI**”) in
2 Qwest territory in each LATA CLEC has local End User Customers. **At**
3 **CLEC’s option, CLEC may establish additional Points of**
4 **Interconnection in each LATA in which CLEC has local End User**
5 **Customers. The Parties agree that this Section 7.1.2 shall not be**
6 **construed as imposing any obligation upon Qwest to establish a**
7 **physical Point of Interconnection with CLEC at a point that is outside**
8 **of Qwest’s geographic service area or territory. ~~CLEC represents and~~**
9 **warrants that it is serving CLEC shall serve** End User Customers
10 physically located within the areas associated with the NPA-NXX codes
11 assigned to those End User Customers. The Parties shall establish, at least
12 one (1) of the following Interconnection arrangements, at any Technically
13 Feasible point: (1) a Qwest-provided **Interconnection Entrance Facility,**
14 **or an Interconnection Facility provided by CLEC, or by a third party;**
15 (2) Collocation; (3) Mid-Span Meet POI facilities, **including such**
16 **arrangements provided to CLEC by a third-party who has an existing**
17 **mid-span meet with Qwest;** or (4) other Technically Feasible methods of
18 Interconnection via the Bona Fide Request (BFR) process unless a
19 particular arrangement has been previously provided to a third party, or is
20 offered by Qwest as a product.
21

22 Charter also proposes to add the following subsections:

23 **7.1.2.4 Interconnection Facility provided a Third-Party. For**
24 **purposes of this Section 7.1.2, CLEC may also interconnect with**
25 **Qwest by leasing an Interconnection Facility from a third-party**
26 **provider.**

27
28
29 **7.1.2.4 (a) Interconnection via an Interconnection Facility**
30 **provided by a Third Party without a Mid-Span Meet Arrangement**
31 **with Qwest. This arrangement may consist of the use of a private line**
32 **facility supplied to CLEC by a third party that has leased private line**
33 **transport service from Qwest with LOA supplied by CLEC.**

34
35 **7.1.2.4(b) Interconnection Facility provided a Third-Party provider on**
36 **the CLEC side of the Collocation POI. CLEC may use, as an**
37 **Interconnection facility, third party- provided transport terminated in**
38 **a collocation space supplied to CLEC by a third party that has leased**
39 **collocation space from Qwest with LOA supplied by CLEC.**
40
41

1 **Q. WHY IS QWEST OPPOSED TO THE CHARTER CHANGES?**

2 A. Charter's proposed modifications to Section 7.1.2 inappropriately change the
3 available interconnection options. First, Charter does not have an unconditional
4 right to establish a single point of interconnection in each LATA in which it has end
5 user customers. The Act and FCC rules interpreting the Act qualify a CLEC's
6 request for a single interconnection point by requiring that the interconnection point
7 be technically feasible. Charter's first change to Section 7.1.2 does not contain this
8 important limitation.

9
10 Charter's second set of proposed changes and the additional subsections seek to
11 replace the commonly understood term "entrance facility" with the new term
12 "interconnection facility." This is merely an attempt by Charter to avoid the
13 limitations the FCC has imposed on the use of entrance facilities. Under the FCC's
14 *Triennial Review Remand Order*¹, other CLECs and third parties are not entitled to
15 obtain entrance facilities as unbundled network elements ("UNEs") and thus, are
16 not entitled to use entrance facilities they have obtained from Qwest to provide
17 transport for Charter. Under the proposed Charter language, Charter would
18 inappropriately be allowed to use entrance facilities that a third party has purchased
19 from Qwest.

20
21 **Q. ARE THE QWEST PROPOSED INTERCONNECTION OPTIONS**

1 **CONSISTENT WITH THOSE WHICH CAME OUT OF THE 271**
2 **PROCEEDINGS?**

3 A. Yes. The Qwest interconnection options are consistent with the options that were
4 developed during the 271 proceedings.

5
6 **Q. DO THE PARTIES ALSO HAVE A RELATED DISPUTE ABOUT THE**
7 **DEFINITION OF INTERCONNECTION FACILITIES?**

8 A. Yes. In the definition section of the agreement, Qwest proposes the following
9 definition of “LIS Entrance Facility”:

10 "Local Interconnection Service or "LIS" Entrance Facility" is a Qwest-
11 provided facility that extends from CLEC's Switch location or Point of
12 Interconnection (POI) to the Qwest Serving Wire Center. A Qwest
13 provided Entrance Facility shall not extend beyond the area served by the
14 Qwest Serving Wire Center.

15
16 Charter proposes to remove this definition and replace it with the following:

17 “Interconnection Facility” is a facility used for the transmission and
18 routing of telephone exchange service and exchange access service
19 between CLEC’s Switch location, or equivalent facility, and the
20 Qwest Switch location or Serving Wire Center.
21

22 **Q. WHY IS QWEST OPPOSED TO THE CHARTER DEFINITION?**

23 A. Again, Charter seeks to replace the commonly understood term “entrance facility”
24 with the new term “interconnection facility.” As I stated previously, this is merely
25 an attempt by Charter to avoid the FCC decision that CLECs are not entitled to

¹ Order on Remand, *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 20 FCC Rcd 2533, ¶¶136-141 (Rel. Feb. 4, 2005)

1 obtain entrance facilities as unbundled UNEs and thus, are not entitled to use
2 entrance facilities they have obtained from Qwest to provide transport for Charter.
3
4

5 **V. DISPUTED ISSUE NO. 13: TRANSPORT OBLIGATIONS**

6 **Q. PLEASE EXPLAIN THE NATURE OF THE DISPUTE AROUND THIS**
7 **ISSUE.**

8 A. Issue No. 13 concerns the language in Sections 7.2 and 7.3 of the ICA related to the
9 parties' respective transport obligations.
10

11 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR THE DISPUTED**
12 **SUBSECTIONS?**

13 A. Qwest is proposing the following language:

14 7.2.2.1.2.2 CLEC may purchase transport services from Qwest or from
15 a third party, including a third party that has leased the private line
16 transport service facility from Qwest. Such transport provides a facility
17 for the LIS trunk to be provisioned in order to deliver the originating
18 Party's Exchange Service EAS/Local traffic to the terminating Party's End
19 Office Switch or Tandem Switch for call termination, and may be
20 purchased from Qwest as Tandem Switch routed (i.e., tandem switching,
21 tandem transmission and direct trunked transport) or direct routed (i.e.,
22 direct trunked transport). This Section is not intended to alter either
23 Party's obligation under Section 251(a) of the Act.
24

25 7.2.2.1.4 LIS ordered to a Tandem Switch will be provided as direct
26 trunked transport between the Serving Wire Center of CLEC's POI and
27 the Tandem Switch. Tandem transmission rates, as specified in Exhibit A
28 of this Agreement, will apply to the transport provided from the Tandem

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Switch to Qwest's End Office Switch.

7.3.2.1 Either Party may elect to purchase direct trunked transport from the other Party.

7.3.2.1.1 Direct trunked transport (DTT) is available between the Serving Wire Center of the POI and the terminating Party's Tandem Switch or End Office Switches. The applicable rates are described in Exhibit A. DTT facilities are provided as dedicated DS3, DS1 or DS0 facilities.

7.3.2.1.2 When DTT is provided to a local or Access Tandem Switch for Exchange Service (EAS/Local) traffic, or to an Access Tandem Switch for IntraLATA LEC Toll, or Jointly Provided Switched Access traffic, the applicable DTT rate elements apply between the Serving Wire Center and the Tandem Switch. Additional rate elements for delivery of traffic to the terminating End Office Switch are tandem switching and tandem transmission. These rates are described below.

7.3.2.1.3 Mileage shall be measured for DTT based on V&H coordinates between the Serving Wire Center and the local/Access Tandem Switch or End Office Switch.

7.3.2.1.4 Fixed Charges per DS0, DS1 or DS3 and per mile charges are defined for DTT in Exhibit A of this Agreement.

7.3.2.2 If the Parties elect to establish LIS two-way DTT trunks, for reciprocal exchange of Exchange Service (EAS/Local) traffic, the cost of the LIS two-way DTT facilities shall be shared among the Parties by reducing the LIS two-way DTT rate element charges as follows:

7.3.2.2.1 The provider of the LIS two-way DTT facility will initially share the cost of the LIS two-way DTT facility by assuming an initial relative use factor of fifty percent (50%) for a minimum of one (1) quarter if the Parties have not exchanged LIS traffic previously. The nominal charge to the other Party for the use of the DTT facility, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one (1) quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor. If CLEC's End User Customers are assigned NPA-NXXs associated with a rate center other than the rate center where the End User Customers are

1 physically located, traffic that does not originate and terminate within the
2 same Qwest Local Calling Area, regardless of the called and calling NPA-
3 NXXs involving those End User Customers, is referred to as "VNXX
4 traffic." For purposes of determining the relative use factor, the
5 terminating carrier is responsible for VNXX traffic. If either Party
6 demonstrates with data that actual minutes of use during the previous
7 quarter justifies a new relative use factor that Party will send a notice to
8 the other Party. The new factor will be calculated based upon Exhibit H.
9 Once the Parties finalize a new factor, bill reductions and payments will
10 apply going forward from the date the original notice was sent. Qwest has
11 never agreed to exchange VNXX traffic with CLEC.
12

13
14 7.3.2.3 Multiplexing options (DS1/DS3 MUX or DS0/DS1 MUX) are
15 available at rates described in Exhibit A.
16

17 **Q. WHAT LANGUAGE DOES CHARTER PROPOSE FOR THE DISPUTED**
18 **SUBSECTIONS?**

19 A. Charter proposes to modify the Qwest language with the following highlighted
20 changes:
21

22 7.2.2.1.2.2 CLEC may purchase transport services from Qwest or from
23 a third party, including a third party that has leased the private line
24 transport service facility from Qwest, **to connect any POIs between the**
25 **networks with CLEC's network. Subject to Section 7.2.2.1.3 below, a**
26 **delivering Party may at its option direct the receiving Party to**
27 **establish trunks from the POI either to the receiving Party's Tandem**
28 **Switch(es), to its End Office Switch(es), or both. The delivering Party**
29 **shall be responsible for paying the receiving Party the appropriate**
30 **Transport and Termination charges for traffic delivered.**
31 **Termination charges shall consist of terminating local switching.**
32 **Transport consists of carrying traffic from the POI to the terminating**
33 **End Office Switch** ~~Such transport provides a facility for the LIS trunk to~~
34 ~~be provisioned in order to deliver the originating Party's Exchange Service~~
35 ~~EAS/Local traffic to the terminating Party's End Office Switch or Tandem~~
36 ~~Switch for call termination and may be purchased from Qwest as Tandem~~
37 ~~Switch routed (i.e., tandem switching, tandem transmission and direct~~
38 ~~trunked transport) or direct routed (i.e., direct trunked transport). This~~

1 Section is not intended to alter either Party's obligation under Section
2 251(a) of the Act
3

4 **7.2.2.1.4 Where the Parties do not utilize the bill and keep**
5 **arrangements set forth in Section 7.3 as the method for fulfilling their**
6 **reciprocal compensation obligations under 47 U.S.C. § 251(b)(5), then**
7 LIS ordered from Qwest to a Tandem Switch will be provided as direct
8 trunked transport between the Serving Wire Center of CLEC's POI and
9 the Tandem Switch. Tandem transmission rates, as specified in Exhibit A
10 of this Agreement, will apply to the transport provided from the Tandem
11 Switch to Qwest's End Office Switch. **For Qwest-originated traffic,**
12 **Qwest will pay CLEC's applicable trunking and tandem switching**
13 **rates from the POI at which the traffic is exchanged to CLEC's End**
14 **Office Switch or equivalent device.**
15

16 7.3.2.1 Either Party may elect to ~~use purchase~~ direct trunked transport
17 ~~from the other party to connect its network to the other Party's End~~
18 **Offices. Direct trunked transport is a form of Transport service as**
19 **that term is used in this Section 7 and is provided by the Parties to**
20 **each other on a bill-and-keep basis.**
21

22 7.3.2.1.1 Direct trunked transport (DTT) is available between the
23 **terminating Party's** Serving Wire Center ~~for~~ of the POI and ~~that the~~
24 ~~terminating~~ Party's Tandem Switch or End Office Switches. ~~The~~
25 ~~applicable rates are described in Exhibit A.~~ DTT facilities are provided as
26 dedicated DS3, DS1 or DS0 facilities.
27

28 7.3.2.1.2 [INTENTIONALLY LEFT BLANK.]
29
30

31 7.3.2.1.3 **Where relevant, mileage shall be measured for DTT based on**
32 **V&H coordinates between the Serving Wire Center and the local/Access**
33 **Tandem Switch or End Office Switch.**
34

35 7.3.2.1.4 [INTENTIONALLY LEFT BLANK.]
36
37

38
39 7.3.2.2 [INTENTIONALLY LEFT BLANK.]
40

41 7.3.2.3 Multiplexing arrangements (DS1/DS3 MUX or DS0/DS1 MUX)
42 ~~are available at rates described in Exhibit A~~ **shall be established by each**
43 **Party in connection with the Transport of traffic delivered by the**

1 **other Party in accordance with standard industry practices.**
2 **Multiplexing is part of the Transport function and is provided by the**
3 **Parties to each other on a bill-and-keep basis.**
4

5 **Q. WHY IS QWEST OPPOSED TO THE CHANGES CHARTER HAS MADE**
6 **TO SECTION 7.2.2.1.2.2?**

7 A. Charter’s proposed changes to Section 7.2.2.1.2.2 are ambiguous and contradictory.
8 Charter’s first change purports to limit the transport Qwest offers such that it would
9 be used only to “connect any POIs between the networks with CLEC’s network.”
10 This change is ambiguous because a point of interconnection is by definition the
11 point where Charter’s network connects to Qwest’s network. Although Section
12 7.2.2.1.2.2 is merely intended to describe transport services Charter may obtain
13 from Qwest or a third party, Charter’s second change inappropriately seeks to
14 transform Section 7.2.2.1.2.2 into a provision prescribing reciprocal compensation
15 terms and conditions. Furthermore, this second change contradicts Charter’s bill
16 and keep proposals which appear elsewhere in its proposed language. (See Issue
17 15).

18
19 **Q. WHY IS QWEST OPPOSED TO THE CHANGES CHARTER HAS MADE**
20 **TO SECTION 7.2.2.1.4?**

21 A. Like the changes to Section 7.2.2.1.2.2, Charter’s proposed changes to Section
22 7.2.2.1.4 are ambiguous and internally inconsistent. Charter’s first change qualifies
23 7.2.2.1.4 with the clause “where the parties do not use the bill and keep
24 arrangement set forth in Section 7.3” but does not specify when that will be the

1 case. Thus, it is ambiguous, particularly given that Charter proposes to strike all
2 language describing Direct Trunked Transport (“DTT”) charges (Sections 7.3.2.1.4,
3 7.3.2.2, 7.3.2.2.1) and again contradicts Charter’s bill and keep proposals which
4 appear elsewhere in its proposed language. Charter’s subsequent changes to
5 Section 7.2.2.1.4 stating that Charter’s “applicable trunking and tandem switching
6 rates” will apply violate the FCC’s rule that reciprocal compensation rates be
7 symmetrical. FCC rule 51.711² states that rates for transport and termination shall
8 be symmetrical and defines symmetrical rates as follows:

9 ... symmetrical rates are rates that a carrier other than incumbent LEC
10 assesses upon an incumbent LEC for transport and termination of
11 telecommunications traffic equal to those that the incumbent LEC assesses
12 upon the other carrier for the same services.
13

14 The rules do allow for asymmetrical rates where the CLEC proves to the
15 Commission, based on a cost study, that such rates are justified. Charter has offered
16 no such justification here.
17

18 **Q. WHY IS QWEST OPPOSED TO THE CHANGES CHARTER HAS MADE**
19 **TO SECTION 7.3.2.1?**

20 A. Charter’s proposed language treats DTT on a bill and keep basis. Qwest is willing
21 to agree to bill and keep for usage-based charges (i.e. termination, tandem
22 transmission and tandem switching) but not for the dedicated transport (i.e. DTT)
23 between the Qwest and Charter networks. Qwest’s proposal to not treat dedicated

² 47 CFR §51.711(a)(1)

1 transport on a bill and keep basis is consistent with the FCC's definition of bill and
2 keep as arrangements "in which neither of the two interconnecting carriers charges
3 the other for *termination* of telecommunications traffic..." (Emphasis added)³ and
4 the FCC's Local Competition Order which states that a bill and keep arrangement
5 does not "preclude a positive flat-rated charge for transport of traffic between
6 carriers' networks."⁴ This bill and keep issue will be discussed in further detail in as
7 a part of Issue No. 15.

8
9 **Q. WHY IS QWEST OPPOSED TO THE CHANGES CHARTER HAS MADE**
10 **TO SECTION 7.3.2.1.1?**

11 A. Charter has removed reference to the Exhibit A DTT rates, apparently in the belief
12 that it should not have to compensate Qwest for DTT provided. Qwest is entitled to
13 compensation for transport it provides and has not agreed to include transport in its
14 bill and keep proposal.

15
16 **Q. WHY IS QWEST OPPOSED TO THE CHARTER'S PROPOSAL TO**
17 **DELETE SECTION 7.3.2.1.2?**

18 A. Because Qwest is entitled to compensation for the DTT it provides, it is important
19 to have the Section 7.3.2.1.2 language which describes the applicable rate elements
20 for DTT.

³ 47 CFR §51.713(a)

⁴ First Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15590, ¶1096 (Aug. 8, 1996)(subsequent history omitted).

1 **Q. WHY IS QWEST OPPOSED TO CHARTER INSERTING THE WORDS**
2 **“WHERE RELEVANT” AT THE BEGINNING OF SECTION 7.3.2.1.3?**

3 A. Because Qwest is entitled to compensation for DTT and because mileage is a
4 component of the DTT charge, mileage is always relevant.

5

6 **Q. WHY IS QWEST OPPOSED TO THE CHARTER’S PROPOSAL TO**
7 **DELETE SECTION 7.3.2.1.4 AND SECTION 7.3.2.2?**

8 A. Charter has again stricken language describing compensation for DTT facilities,
9 compensation to which Qwest is entitled when DTT facilities are provided.

10

11 **Q. WHY IS QWEST OPPOSED TO THE CHANGES CHARTER HAS MADE**
12 **TO SECTION 7.3.2.3?**

13 A. Qwest is entitled to charge for multiplexing used in connection with DTT. Charter
14 has removed references to the rates for multiplexing and proposes to handle
15 multiplexing on a bill and keep basis. Qwest is willing to agree to bill and keep for
16 usage-based charges (i.e. termination, tandem switching, tandem transmission) but
17 not for the dedicated transport and associated multiplexing between the Qwest and
18 Charter networks.

19

20

1 **months after installation, the Party that installed the trunks may**
2 **assess the other Party Qwest trunk installation (nonrecurring) rates**
3 **as specified in Exhibit A.**

4
5 7.3.3.2 Nonrecurring charges for rearrangement **requested by one Party**
6 **for its own convenience** may be assessed by the provider for each trunk
7 rearrangement ordered, at one-half (1/2) the rates specified in Exhibit A.
8

9 **Q. WHY IS QWEST OPPOSED TO THE CHANGES?**

10 A. Charter has again proposed that trunking charges be treated as bill and keep. As
11 will be discussed in the following section, consistent the FCC's definition of bill
12 and keep and the FCC's Local Competition Order, Qwest is willing to agree to bill
13 and keep for usage-based charges, but not for the dedicated transport.
14
15

16 **VII. DISPUTED ISSUE NO. 15: BILL AND KEEP COMPENSATION**

17 **Q. PLEASE EXPLAIN ISSUE NO 15.**

18 A. Issue No. 15 has to do with Section 7.3.4.1 of the ICA which addresses reciprocal
19 compensation for local traffic. As noted above, Qwest has agreed to bill and keep
20 for usage based charges (i.e. termination, tandem switching, tandem transmission)
21 but not for dedicated transport. Charter believes that bill and keep should apply to
22 all transport and termination charges.
23

24 **Q. WHAT LANGUAGE IS QWEST PROPOSING?**

25 A. Qwest is proposing the following language:

1 7.3.4.1.1.2 47 C.F.R. § 51.713 defines bill-and-keep arrangements for
2 reciprocal compensation as arrangements in which neither of two
3 interconnecting carriers charges the other for the Termination of Exchange
4 Service (EAS/Local) telecommunications traffic that originates on the
5 other carrier's network.
6
7
8

9 7.3.4.1.2 The Parties agree that, based upon the fact that the traffic
10 exchanged between the Parties historically has been roughly balanced,
11 compensation for the Termination of Exchange Service (EAS/Local)
12 Traffic shall be based upon the bill and keep compensation mechanism,
13 whereby neither Party charges the other Party reciprocal compensation for
14 the Termination of Exchange Service (EAS/Local) traffic originated by
15 the one Party and terminated by the other Party. Under this bill-and-keep
16 scenario neither Party will bill the other Party for any Termination costs
17 associated with delivery of the Exchange Service (EAS/Local) call to the
18 carrier's end-user.
19
20
21

22 7.3.4.1.3 Pursuant to Section 7.3.4.1.2 above, when CLEC chooses
23 to interconnect and deliver traffic to Qwest utilizing a single POI within
24 the LATA, neither party will bill the other Party any usage sensitive
25 charges associated with Exchange Service (EAS/Local) traffic.
26
27

28 **Q. WHAT LANGUAGE IS CHARTER PROPOSING?**

29 A. Charter is proposing the following highlighted changes:

30 7.3.4.1.1.2 47 C.F.R. § 51.713 defines bill-and-keep arrangements for
31 reciprocal compensation as arrangements in which neither of two
32 interconnecting carriers charges the other for the **Transport and**
33 Termination of Exchange Service (EAS/Local) telecommunications traffic
34 that originates on the other carrier's network.

35 7.3.4.1.2 The Parties agree that, based upon the fact that the traffic
36 exchanged between the Parties historically has been roughly balanced,
37 compensation for the **Transport and** Termination of Exchange Service
38 (EAS/Local) Traffic shall be based upon the bill and keep compensation
39 mechanism, whereby neither Party charges the other Party reciprocal
40 compensation for the **Transport and** Termination of Exchange Service

1 (EAS/Local) traffic originated by the one Party and terminated by the
2 other Party. Under this bill-and-keep scenario neither Party will bill the
3 other Party for any **call Transport and** Termination costs associated with
4 delivery of the Exchange Service (EAS/Local) call to the **terminating**
5 carrier's end-user.
6

7
8 7.3.4.1.3 Pursuant to Section 7.3.4.1.2 above, when CLEC chooses to
9 interconnect and ~~deliver exchange traffic to~~ **with** Qwest utilizing a single
10 POI within the LATA, neither party will bill the other Party any usage
11 sensitive **monthly recurring or nonrecurring charges** ~~associated with~~
12 ~~Exchange Service (EAS/Local) traffic. (including trunks and/or~~
13 **facilities and switch related charges) for Transport or Termination**
14 **costs that the terminating party may incur when delivering the**
15 **originating Party's EAS/Local Traffic to end users within the same**
16 **LATA.**
17

18 **Q. WHY IS QWEST OPPOSED TO THE CHARTER PROPOSED**
19 **LANGUAGE?**

20 A. Charter's inclusion of transport in a bill and keep arrangement is not consistent with
21 the FCC rules which define bill and keep as follows:

22 ... bill-and-keep arrangements are those in which neither of the two
23 interconnecting carriers charges the other for the *termination* of
24 telecommunications traffic that originates on the other carrier's network.
25 (Emphasis added)⁵
26
27

28 Qwest is willing to agree to bill and keep for usage-based charges (i.e. termination,
29 tandem switching, tandem transmission) but not for the flat rated dedicated
30 transport (i.e. DTT) between the Qwest and Charter networks. The Qwest proposal

⁵ 47 CFR §51.713(a)

1 is entirely consistent with the discussion of the bill and keep concept in the FCC's

2 Local Competition Order which states:

3 1. *Local Competition NPRM.* In the NPRM, we defined bill-and-keep
4 arrangements as those in which neither of two interconnecting networks
5 charges the other network for terminating traffic that originated on the other
6 network. Instead, each network recovers from its own end users the cost of
7 both originating traffic delivered to the other network and terminating traffic
8 received from the other network. ***A bill-and-keep approach for termination***
9 ***of traffic does not, however, preclude a positive flat-rated charge for***
10 ***transport of traffic between carriers' networks.*** ⁶ (Emphasis added).
11
12

13 **Q. DO THE FCC RULES AUTHORIZE STATE COMMISSIONS TO IMPOSE**
14 **BILL AND KEEP FOR TRANSPORT?**

15 A. No. FCC Rule 51.713 addresses the circumstances in which a state commission can
16 impose a bill and keep arrangement on two interconnecting parties. This rule states
17 that “[f]or purposes of this subpart, bill and keep arrangements are those in which
18 neither of the two interconnecting carriers charges the other for the termination of
19 telecommunications traffic that originates on the other carrier’s network.”⁷ Neither
20 the FCC’s definition of bill-and-keep in Rule 51.713(a) nor the FCC’s authorization
21 for state commissions to impose bill in keep in Rule 51.713(b) authorizes the
22 Commission to impose bill and keep for transport, much less dedicated transmission
23 facilities, as Charter is proposing.
24

⁶ First Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15590, ¶1096 (Aug. 8, 1996)(subsequent history omitted).

⁷ 47 C.F.R. §51.713(a).

1 For all of these reasons, the Commission should reject Charter's proposed changes
2 to Sections 7.3.4.1.1.2, 7.3.4.1.2 and 7.3.4.1.3.

3
4 **Q. IF THE COMMISSION DOES NOT AGREE TO QWEST'S BILL AND**
5 **KEEP PROPOSAL, WHAT CONTRACT LANGUAGE SHOULD BE**
6 **ADOPTED TO SET FORTH THE PARTIES' RESPECTIVE RECIPROCAL**
7 **COMPENSATION OBLIGATIONS?**

8 A. Should the Commission reject Qwest's bill and keep proposal, Qwest proposes that
9 the following reciprocal compensation obligation language be adopted:

10
11 7.3.4 EXCHANGE SERVICE (EAS/LOCAL) TRAFFIC

12
13 7.3.4.1 End Office Switch Call Termination

14
15 7.3.4.1.1 The per-minute-of-use call termination rates as
16 described in Exhibit A of this Agreement will apply reciprocally
17 for Exchange Service (EAS/Local) traffic terminated at a Qwest
18 or CLEC End Office Switch.

19 7.3.4.1.2 For purposes of call termination, CLEC Switch(es)
20 shall be treated as End Office Switch(es) unless CLEC's
21 Switch(es) meet the definition of a Tandem Switch in this
22 Agreement in the Definitions Section.

23 7.3.4.1.3 Intentionally Left Blank.

24 7.3.4.1.4 Neither Party shall be responsible to the other for
25 call termination charges associated with third party traffic that
26 transits such Party's network.

27
28 7.3.4.2 Tandem Switched Transport

29
30 7.3.4.2.1 For traffic delivered through a Qwest or CLEC
31 Tandem Switch (as defined in this Agreement), the tandem

1 switching rate and the tandem transmission rate in Exhibit A
2 shall apply per minute in addition to the End Office Switch call
3 termination rate described above. CLEC End Office Switch(es)
4 shall be considered Tandem Office Switch(es) for the purpose of
5 determining reciprocal compensation rates to the extent such
6 Switch(es) serves a comparable geographic area as Qwest's
7 Tandem Office Switch.
8

9 7.3.4.2.2 Mileage shall be measured for the tandem
10 transmission rate elements based on V&H coordinates between
11 the Tandem Switch and terminating End Office Switch.

12 7.3.4.2.3 When a Party terminates traffic to a remote Switch,
13 tandem transmission rates will be applied for the V&H mileage
14 between the host Switch and the remote Switch when the identity
15 of each is filed in the NECA 4 Tariff.

16 7.3.4.2.4 When Qwest receives an unqueried call from CLEC
17 to a number that has been ported to another Switch within the
18 EAS/Local Calling Area, and Qwest performs the query, mileage
19 sensitive tandem transmission rates will apply which reflect the
20 distance to the End Office Switch to which the call has been
21 ported.
22

23 7.3.4.2.4.1 To determine the responsible originating Carrier
24 of unqueried calls for purposes of identification of the Carrier to
25 bill LNP query charges, Qwest and CLEC are required to utilize
26 the Number Portability Administration Center (NPAC) database,
27 or another database that is supported by OBF.
28

29 7.3.4.3 Intentionally Left Blank.
30

31 7.3.4.4 CLEC may choose one (1) of the following two (2) options for the
32 exchange of traffic subject to Section 251(b)(5) of the Act ("Section
33 251(b)(5) Traffic") (see Exhibit J):
34

35 7.3.4.4.1 The rates applicable to Section 251(b)(5) Traffic
36 between Qwest and CLEC shall be the same as the rates
37 established for ISP-bound traffic pursuant to Section 7.3.6. Such
38 rate for ISP-bound traffic will apply to Section 251(b)(5) Traffic
39 in lieu of End Office Switch Call Termination rates, and Tandem
40 Switched Transport rates.

41 7.3.4.4.2 The compensation rate for Section 251(b)(5) Traffic
42 shall be as established by the Commission. The Parties shall

1 cooperate in establishing a process by which Section 251(b)(5)
2 Traffic and ISP-bound traffic will be identified in order to
3 compensate one another at the appropriate rates and in a prompt
4 manner (see Section 7.3.6).
5

6 7.3.4.5 The Parties will not pay terminating compensation on traffic,
7 including ISP-bound traffic, when the traffic does not originate and
8 terminate within the same Qwest Local Calling Area, regardless of the
9 calling and called NPA-NXXs and, specifically, regardless whether an
10 End User Customer is assigned an NPA-NXX associated with a rate center
11 that is different from the rate center where the End User Customer is
12 physically located (also known as "VNXX traffic"). Qwest's agreement to
13 the terms in this paragraph is without waiver or prejudice to Qwest's
14 position is that it has never agreed to exchange VNXX traffic with CLEC.
15

16 7.3.6 ISP-BOUND TRAFFIC

17
18 7.3.6.1 Subject to the terms of this Section, terminating compensation for
19 ISP-bound traffic exchanged between Qwest and CLEC will be billed
20 pursuant to rates in Exhibit A, without limitation as to the number of
21 minutes of use (MOU) or whether the MOU are generated in "new
22 markets" as that term has been defined by the FCC so long as the ISP for
23 which the call is bound is physically located in the same local calling area
24 as the End User Customer originating the call.
25

26 7.3.6.2 Identification of ISP-Bound Traffic – Qwest will presume traffic
27 delivered to CLEC that exceeds a 3:1 ratio of terminating (Qwest to
28 CLEC) to originating (CLEC to Qwest) traffic is ISP-bound traffic. Either
29 Party may rebut this presumption by demonstrating the factual ratio to the
30 Commission. Traffic exchanged that is not ISP-bound traffic will be
31 considered to be Section 251(b)(5) traffic. The provisions in this Section
32 apply regardless how the ISP-bound traffic is determined.
33

34

35 **VIII. DISPUTED ISSUE NO. 16: INDIRECT INTERCONNECTION**

36

37 **Q. PLEASE EXPLAIN ISSUE NO. 16.**

1 A. Issue No. 16 concerns new language that Charter proposes regarding indirect
2 interconnection. This was not an issue that was discussed during the parties'
3 negotiations. Qwest was only made aware of this new issue on the day Charter's
4 Petition for Arbitration was filed and has not had an opportunity to discuss the
5 language with Charter to determine the intent of the language.

6
7 **Q. WHAT LANGUAGE IS CHARTER PROPOSING?**

8 A. Charter proposes the following:

9 7.1.2.6 Either Party may deliver Local Traffic and ISP-bound Traffic
10 indirectly to the other for termination through any carrier to which both
11 Parties' networks are interconnected directly or indirectly. The Originating
12 Party shall bear all charges payable to the transiting carrier(s) for such
13 transit service with respect to Local Traffic and ISP-bound Traffic.

14
15 7.1.2.7 Unless otherwise agreed, the Parties shall exchange all Local
16 Traffic and ISP-bound Traffic indirectly through one or more transiting
17 carriers until the total volume of Local Traffic and ISP-bound Traffic
18 being exchanged between the Parties' networks exceeds 240,000 minutes
19 per month for three (3) consecutive months, at which time either Party
20 may request the establishment of Direct Interconnection. Notwithstanding
21 the foregoing, if either Party is unable to arrange for or maintain transit
22 service for its originated Local Traffic upon commercially reasonable
23 terms before the volume of Local Traffic and ISP-bound Traffic being
24 exchanged between the Parties' networks exceeds 240,000 minutes per
25 month, that Party may unilaterally, and at its sole expense, utilize one-way
26 trunk(s) for the delivery of its originated Local Traffic to the other Party.

27
28 7.1.2.8 After the Parties have established Direct Interconnection between
29 their networks, neither Party may continue to transmit its originated Local
30 Traffic and ISP-bound Traffic indirectly except on an overflow basis to
31 mitigate traffic blockage, equipment failure or emergency situations.

32
33 7.1.2.9 Local Traffic and ISP-bound Traffic exchanged by the Parties
34 indirectly through a transiting carrier shall be subject to the same
35 Reciprocal Compensation, if any, as Local Traffic and ISP-bound Traffic
36 exchanged through Direct Interconnection.

37

1 **Q. WHY IS QWEST OPPOSED TO CHARTER'S LANGUAGE?**

2 A. Charter's proposed language does not address significant issues that arise with
3 respect to indirect interconnection. Indeed, Charter does not so much as identify the
4 third party carrier it intends to use. Numerous other issues concerning the terms
5 and conditions of interconnection and traffic exchange between Qwest and the third
6 party carrier are not even addressed. For example, Charter's language contains no
7 provisions that address how traffic routed through the hypothetical third party
8 carrier will be segregated, identified or tracked so that the applicable intercarrier
9 compensation, if any, will be applied to Charter's traffic and not to other carriers'
10 traffic with which Charter's traffic happens to be commingled. When Charter is
11 the originating carrier, Charter should be responsible for supplying the requisite
12 billing information to Qwest and other carriers to whom Charter originated traffic is
13 delivered. Charter's language is so completely deficient with respect to these types
14 of issues that it should be rejected.

15

16 **Q. DOES CHARTER'S PROPOSED LANGUAGE CONFLICT WITH OTHER**
17 **AGREED UPON LANGUAGE IN THE ICA?**

18 A. Yes. The parties have agreed on the following language in Section 7.2.1.1:

19 7.2.1.1 This Section 7.2 addresses the exchange of traffic between CLEC's
20 network and Qwest's network. Where either Party interconnects and
21 delivers traffic to the other from third parties, each Party shall bill such
22 third parties the appropriate charges pursuant to its respective Tariffs or
23 contractual offerings for such third party terminations. *Unless otherwise*
24 *agreed to by the Parties, via an amendment to this Agreement, the*
25 *Parties will directly exchange EAS/Local traffic between their respective*
26 *networks without the use of third party transit providers.* (Emphasis
27 added).

1 This agreed upon language requires that the parties directly exchange traffic rather
2 than using a third party transit provider, unless and until the parties agree otherwise
3 through an amendment. Such an amendment would address the traffic routing,
4 identification and compensation issues that the proposed Charter language fails to
5 address.

6
7
8 **IX. DISPUTED ISSUE NO. 18: RATES FOR 911 FACILITIES**

9 **Q. PLEASE EXPLAIN THE NATURE OF THE DISPUTE ON THIS ISSUE.**

10 A. Issue No. 18 concerns Section 10.3.7.1.1 of the ICA which discusses 911 facilities.
11 Qwest disagrees with Charter's proposal that all such facilities shall be charged as
12 local interconnection facilities.

13 **Q. WHAT LANGUAGE IS QWEST PROPOSING?**

14 A. Qwest is proposing the following language:

15 10.3.7.1.1 The Parties shall establish a minimum of two (2) dedicated
16 trunks from CLEC's Central Office to each Qwest 911/E911 Selective
17 Router (i.e., 911 Tandem Office) that serves the areas in which CLEC
18 provides Exchange Service, for the provision of 911/E911 services and for
19 access to all subtending PSAPs (911 Interconnection Trunk Groups).
20 Qwest will provision diverse routing for 911/E911 circuits, if facilities are
21 available. When Qwest facilities are available, Qwest will comply with
22 diversity of facilities and systems as ordered by the State/PSAP. Where
23 there is alternate routing of 911/E911 calls to a PSAP in the event of
24 failures, Qwest shall make that alternate routing available to CLEC.
25 When 911/E911 underlying transport is ordered by the State/PSAP, CLEC
26 will not be subject to Qwest transport charges. 911/E911 DS0 trunks may

1 be provisioned on either muxed LIS T1 facilities or muxed private line T1
2 facilities at the CLEC's discretion.
3
4

5 In an effort to resolve this issue, Qwest has modified the last sentence of this
6 section from the version that was included in the parties' previous filings.
7

8 **Q. WHAT LANGUAGE IS CHARTER PROPOSING?**

9 A. Charter proposes that Qwest's last sentence be changed to read as follows:

10 **Otherwise, rates for 911/E911 facilities shall be the same as rates for**
11 **LIS facilities**
12

13 **Q. WHY IS QWEST OPPOSED TO CHARTER'S PROPOSED CHANGE TO**
14 **THE LAST SENTENCE?**

15 A. Qwest's proposed last sentence makes clear that ordering such facilities as LIS
16 facilities is an option, however, unlike the Charter language, it does not require that
17 LIS facility rates apply to all 911 facilities. This is important since LIS is just one
18 option for 911 facilities. Another option is to purchase private line facilities to
19 carry 911/E911 traffic. If Charter orders a private line from Qwest to carry
20 911/E911 traffic, private line rates should apply, not LIS rates as Charter's language
21 would require. Charter's proposed change should be rejected.
22
23

1

X. CONCLUSION

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

3 A. Yes.