

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**IN THE MATTER OF THE CONTINUED)
COSTING AND PRICING OF UNBUNDLED) Docket No. UT-003013
ELEMENTS, TRANSPORT AND) Part B
TERMINATION, AND RESALE)**

SUPPLEMENTAL DIRECT TESTIMONY

OF

BARBARA J. BROHL

QWEST CORPORATION

January 8, 2001

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1

I. IDENTIFICATION OF WITNESS

2

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3

A. My name is Barbara J. Brohl. My business address is 1801 California Street, Room
4 2410, Denver, Colorado 80202.

5

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

6

A. I am employed by Qwest Corporation (Qwest), f/k/a U S WEST Communications,
7 Inc. as a Director of Wholesale Advocacy in the Wholesale Markets organization.

8

Q. HAVE YOU FILED TESTIMONY IN THIS PROCEEDING BEFORE?

9

A. Yes. However, at that time, I was representing the costs associated with OSS. Since
10 that time I have changed positions and will now represent wholesale products. To
11 that end, I adopt the Supplemental Direct Testimony of Perry Hooks, Jr. filed on
12 October 19, 2000 in its entirety.

13

Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE AND EDUCATION.

14

A. Currently, my responsibilities include identifying and managing regulatory issues
15 surrounding service performance-related matters, wholesale processes, and wholesale
16 products, as a result of the Telecommunications Act of 1996, FCC orders, state
17 commission decisions, and other legal and regulatory matters. I am responsible for
18 testifying before federal and state regulatory bodies in arbitration cases, rulemakings
19 and complaint proceedings, and in courts concerning conformance with state and
20 federal telecommunications laws and regulations. Prior to my current assignment, I

1 was responsible for developing advocacy and testifying before state and federal
2 regulatory bodies on issues surrounding Qwest's operational support systems (OSS).
3 Before that, I managed the Information Technologies department's compliance with
4 the restrictions of the Modification of Final Judgment and the requirements of Open
5 Network Architecture. During that time, I became certified by the Institute for
6 Certification of Computing Professionals (ICCP) as a Certified Computing
7 Professional (CCP), and then received a Bachelor of Science degree in Business/
8 Computer Science from Regis University in 1991. In 1995, I received a Juris
9 Doctorate degree from the University of Denver, School of Law. I then left
10 U S WEST, now Qwest, for approximately two years to work as a judicial law clerk
11 for the Colorado Supreme Court. Since my return, my work has focused on providing
12 regulatory support to the Wholesale Markets organization.

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

14 A. The purpose of my testimony is to respond to and rebut assertions made by Mr. Roy
15 Lathrop of WorldCom and Mr. Joseph Gillan of AT&T. Specifically, I will: 1)
16 address cost issues associated with line splitting; 2) explain the fundamental
17 difference between line sharing and line splitting; 3) discuss the FCC's decisions
18 regarding line sharing and line splitting; 4) reiterate Qwest's position on providing the
19 voice splitter; and 5) distinguish the Texas Arbitration Award fact pattern from the
20 facts as they exist with Qwest.

21

1 **Q. PLEASE EXPLAIN THE DIFFERENCES BETWEEN LINE SPLITTING AND**
2 **LINE SHARING FURTHER.**

3 A. The major difference between line sharing and line splitting is that with line sharing,
4 Qwest is the underlying voice provider, and with line splitting, the voice CLEC
5 providing voice service over the loop is the underlying voice provider.² The voice
6 CLEC could be providing voice service using either an unbundled loop or UNE-P.

7
8 With line sharing, Qwest had the entire loop and has unbundled the high frequency
9 portion of the loop and provided it to a data CLEC. Qwest and the data CLEC enter
10 into an agreement whereby the two companies determine how constructing, ordering,
11 provisioning, repairing, and billing will occur and, more importantly, how they will
12 both service the end-user customer.

13
14 In the case of line splitting, the voice CLEC takes the entire loop and then can enter
15 into its own separate arrangement with a data CLEC to provide access to the high
16 frequency portion of the loop to that data CLEC. It is the voice CLEC and the data
17 CLEC that must then determine how they will provide service to the end-user
18 customer. In the case of line splitting, Qwest is not involved in the arrangement
19 between the two CLECs.

² See In the Matters of Deployment of Wireline Services Offering Advanced Technologies Capability and Implementation of the Local Competition Provision of the Telecommunications Act of 1996, CC Docket Nos. 98-147 and 96-98, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, FCC 99-355 ¶ 72 (rel. Dec. 9, 1999) (Line Sharing Order).

1 **Q. HAS QWEST DEVELOPED ITS LINE SPLITTING PRODUCT?**

2 A. Not completely. Qwest is in the process of developing the line splitting product and
3 had created a draft product description. Through its line sharing sub-team, which is
4 comprised of members of Qwest and the CLECs, Qwest has begun to work through
5 many of the issues related to line splitting. As a matter of fact, on November 8, 2000,
6 Qwest provided the CLECs with a copy of the draft line splitting product description
7 and a copy of the line splitting scenarios. While progress has occurred, additional
8 work is still necessary.

9 **Q. BOTH MR. LATHROP AND MR. GILLAN ENCOURAGE THIS**
10 **COMMISSION TO REQUIRE QWEST TO PROVIDE THE SPLITTER IN A**
11 **LINE SPLITTING ARRANGEMENT.⁶ DO YOU AGREE?**

12 A. Absolutely not. As I stated earlier, the FCC has already reviewed and rejected this
13 request. In the SBC 271 Opinion and Order, the FCC stated:

14 326. AT&T also argues that it has a right to line splitting
15 capability over the UNE-P with SWBT furnishing the line splitter.
16 AT&T alleges that this is "the only way to allow addition of xDSL
17 service onto UNE-P loops in a manner that is efficient, timely, and
18 minimally disruptive."⁷ Furthermore, AT&T contends that
19 competing carriers have an obligation to provide access to all the
20 functionalities and capabilities of the loop, including electronics
21 attached to the loop. AT&T contends that the splitter is an
22 example of such electronics and that it is included in the loop
23 element.

⁶ See Lathrop Direct Testimony p. 11; Gillan Supplemental Direct Testimony p. 4.

⁷ Mr. Lathrop of WorldCom furthers this same argument on page 12 of his October 19, 2000 Direct Testimony.

1 327. We reject AT&T's argument that SWBT has a present
2 obligation to furnish the splitter when AT&T engages in line
3 splitting over the UNE-P. The Commission has never exercised its
4 legislative rulemaking authority under section 251(d)(2) to require
5 incumbent LECs to provide access to the splitter, and incumbent
6 LECs therefore have no current obligation to make the splitter
7 available. As we stated in the UNE Remand Order, "with the
8 exception of Digital Subscriber Line Access Multiplexers
9 (DSLAMS), the loop includes attached electronics, including
10 multiplexing equipment used to derive the loop transmission
11 capacity. We separately determined that the DSLAM is a
12 component of the packet switching unbundled network element.
13 We observed that "DSLAM equipment sometimes includes a
14 splitter" and that, "[i]f not, a separate splitter device separates
15 voice and data traffic." We did not identify any circumstances in
16 which the splitter would be treated as part of the loop, as
17 distinguished from being part of the packet switching element.
18 That distinction is critical, because we declined to exercise our
19 rulemaking authority under section 251(d)(2) to require incumbent
20 LECs to provide access to the packet switching element, and our
21 decision on that point is not disputed in this proceeding.

22 328. The UNE Remand Order cannot fairly be read to impose on
23 incumbent LECs an obligation to provide access to their splitters.
24 ...⁸

25 **Q. ON PAGE 11 OF HIS DIRECT TESTIMONY, MR. LATHROP STATES**
26 **THAT "WITHOUT THE BENEFIT OF AN ILEC-FURNISHED LINE**
27 **SPLITTER, A UNE-P PROVIDER WOULD HAVE TO PURCHASE**
28 **COLLOCATION SPACE (OR COLLOCATE IN A COMMON AREA)." IS**
29 **THIS TRUE?**

30 A. No. To understand why, let us analyze how the line sharing arrangement works
31 between Qwest and the data CLECs who wish to line share. In that arrangement, the
32 data CLECs provide the splitters and manage their own inventory. Data CLECs have

⁸ SBC 271 Approval Order ¶¶ 326 - 328 (footnotes omitted) (emphasis added).

1 the option of having their splitters in the common area or in their collocation area.
2 Qwest manages the installation when the splitter is in the common area and the data
3 CLEC manages the installation when the splitter is in its collocation area. Qwest has
4 negotiated and entered into this business arrangement with the data CLECs who are
5 line sharing. There is nothing to preclude a voice CLEC from negotiating a similar
6 business arrangement with one or more data CLECs to provide the voice splitter and
7 carry the data traffic for the end-user customer. In that instance, there would be no
8 need for the voice CLEC to collocate either in the common area or in a dedicated
9 area.

10 **Q. MR. LATHROP GOES ON TO STATE THAT "FAILURE BY THE ILECS TO**
11 **DEPLOY LINE SPLITTERS EFFECTIVELY DESTROYS THE UTILITY OF**
12 **UNE-P AS A VIABLE MEANS OF COMPETING FOR RESIDENTIAL**
13 **CUSTOMERS WHO WANT ADVANCED SERVICES." DO YOU AGREE?**

14 A. Not at all. In fact, in its UNE Remand Order, the FCC recognized "that equipment
15 needed to provide advanced services . . . are available on the open market at
16 comparable prices to incumbents and requesting carriers alike."⁹ The associated
17 footnote provides some insight as to the FCC's rationale: "ILECs' competitors can
18 acquire and install equipment for advanced services on a relatively equal footing with
19 the incumbent LECs. The relevant electronic equipment is produced by numerous

⁹ In the Matter of Implementation of the Local Competition Provision of the Telecommunications Act of 1996; Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC 96-98, FCC 99-238 at ¶ 308 (rel. Nov. 5, 1999) (UNE Remand Order).

1 vendors, establishing a competitive equipment market that can effectively discipline
2 prices, provisioning and other service terms for the foreseeable future."¹⁰

3 **Q. WILL QWEST BE HARMED IF IT IS REQUIRED TO PROVIDE THE**
4 **SPLITTER IN A LINE SPLITTING ARRANGEMENT?**

5 A. Yes, for several reasons. First, the FCC has stated that other than as a part of packet
6 switching, it has not identified any circumstance in which the splitter would be treated
7 as part of the loop.¹¹ Second, the FCC has stated that equipment needed to deploy
8 advanced data services is available on the open market, putting the ILECs and CLECs
9 on a relatively equal footing with respect to their abilities to acquire and install that
10 equipment.¹² Therefore, making ILECs provision splitters in line splitting
11 arrangements fails the Act's necessary and impair test.¹³ But the most important
12 reason is that Qwest does not require a stand-alone voice splitter for its own use.
13 Rather, it has deployed integrated voice splitter/DSLAMs for its own Rate Adaptive
14 Digital Subscriber Line (RADSL) service. To require Qwest to provide voice
15 splitters to the voice CLECs would require Qwest to purchase equipment that it does
16 not use merely so that a voice CLEC does not have to do so. This is extremely
17 inequitable considering that the FCC has rejected the argument that this piece of
18 equipment is needed to provide access to all the functionalities and capabilities of the

¹⁰ UNE Remand Order n.609 (emphasis added).

¹¹ See SBC 271 Approval Order ¶¶ 327 - 328.

¹² See UNE Remand Order ¶ 308 & n.609.

¹³ See 47 U.S.C. § 251(d)(2); UNE Remand Order ¶¶ 44, 51.

1 loop,¹⁴ and that the FCC has expressly found that CLECs have an equal ability to
2 acquire and install this type of equipment.

3 **Q. ON PAGE 13, MR. LATHROP STATES THAT OTHER STATE**
4 **COMMISSIONS HAVE ORDERED ILECS TO PROVIDE THE SPLITTER.**
5 **PLEASE COMMENT.**

6 A. Mr. Lathrop is referring to a Texas Arbitration decision.¹⁵ However, a closer reading
7 of that decision shows that it was based on facts that are materially different than the
8 facts in Washington. In that decision, Southwestern Bell Telephone Company
9 (SWBT) was required to provide voice splitters to voice CLECs using UNE-P for line
10 splitting because it was providing voice splitters to data CLECs for line sharing. The
11 arbitrator stated:

12 The Arbitrators agree with AT&T that it is discriminatory for
13 SWBT to provide the splitter in a line sharing context while not
14 providing the splitter in a line splitting context.¹⁶

15 Here, Qwest does not provide voice splitters to data CLECs for use in line sharing.
16 Rather, the data CLECs must provide them. Qwest has the same splitter requirement
17 for both line sharing and line splitting and therefore does not have the same issue
18 with respect to discriminatory treatment that SWBT had.

¹⁴ See SBC 271 Approval Order ¶¶ 326- 328.

¹⁵ See Arbitration Award, Petition of Southwestern Bell Telephone Company for Arbitration with AT&T Communications of Texas, Docket No. 22315 (September 13, 2000) at 15.

¹⁶ Id. at 21.

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V. CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. I provided a detailed explanation of Qwest's obligations as they relate to line splitting. While Qwest agrees that it has an obligation to permit line splitting to voice CLECs using UNE-P, there is no legal basis to require Qwest to provide the voice splitter in that situation. This is supported by several orders by the FCC, in which it has stated in a variety of ways that while the ILEC must permit CLECs who wishes to engage in line splitting over UNE-P to do so, the ILECs do not have an obligation to provide the voice splitter. First, the FCC has stated that it had not identified any circumstances whereby the splitter would be treated as part of the loop. Second, the FCC clearly found that equipment needed to deploy advanced data services is readily available, therefore failing the necessary and impair test. Third, the FCC stated that the UNE Remand Order cannot fairly be read to impose an obligation on ILECs to provide access to their splitters. Moreover, Qwest does not use standalone voice splitters for its own use. To require Qwest to provide voice splitters to the voice CLECs would require Qwest to go out and purchase equipment that it does not use merely so that a voice CLEC does not have to do so. As I stated earlier, this would be extremely inequitable considering that the FCC has rejected the argument that this piece of equipment is needed to provide access to all the functionalities and capabilities of the loop, and that the FCC has expressly found that CLECs have an equal ability to acquire and install this type of equipment.

1 **Q. WHAT DOES QWEST RECOMMEND TO THIS COMMISSION WITH**
2 **RESPECT TO THE OBLIGATION TO DEPLOY VOICE SPLITTERS?**

3 A. Qwest recommends that this commission decline to require Qwest to deploy voice
4 splitters for CLECs utilizing line splitting.

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

6 A. Yes, it does.