BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of Qwest Corporation to Initiate a Mass-Market Switching and Dedicated Transport Case Pursuant to the Triennial Review Order	))))	**Docket No. UT-033044**

DIRECT JOINT TESTIMONY OF

MEGAN DOBERNECK AND MICHAEL ZULEVIC

FILED ON BEHALF OF

COVAD COMMUNICATIONS COMPANY

December 22, 2003

I. QUALIFICATIONS

Q. MS. DOBERNECK, IDENTIFY YOURSELF FOR THE COMMISSION.

A. My name is Megan Doberneck and I am employed by Covad Communications Company ("Covad") as the Vice President of External Affairs for the Qwest region. My business address is 7901 Lowry Boulevard, Denver, CO 80230.

Q. MR. ZULEVIC, IDENTIFY YOURSELF FOR THE COMMISSION.

A. My name is Michael Zulevic and I am employed by Covad Communications Company ("Covad") as the Director of External Affairs for the Qwest region. My business address is 7901 Lowry Boulevard, Denver, CO 80230.

Q. MS. DOBERNECK, PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR JOB RESPONSIBILITES AND EXPERIENCE.

A. As Vice President of External Affairs for the Qwest region, I am responsible for managing the business, regulatory and legal relationship between Covad and its incumbent telephone company vendor, Qwest. I am responsible for ensuring resolution of business issues between the two companies, including driving resolution on operational, OSS, and billing problems and negotiating with Qwest for the purpose of ensuring that Covad can pursue meaningful business opportunities in this market.

Covad is currently providing high speed internet access service using DSL technology in seven of the 14 Qwest states. Covad purchases unbundled network elements from Qwest to provide residential and business DSL services in those states. The team that I manage interfaces with internal Covad groups dedicated to provisioning Covad service.

I hold a Bachelor of Arts degree, *magna cum laude*, from the University of California at Berkeley, with a major in Political Science. I also hold a Juris Doctor degree, with honors, from Columbia University School of Law in New York City, New York. Before joining Covad, I practiced law in Denver with the firm of Faegre & Benson, LLP. Prior to working at Faegre, I practiced law in Washington, D.C. with the firm of Akin, Gump, Strauss, Hauer & Feld LLP. I joined Covad in January 2001 as senior counsel for the Qwest region. In October 2002, I moved to my current assignment with responsibility for the Qwest region.

Q. MR. ZULEVIC, PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR JOB RESPONSIBILITES AND EXPERIENCE.

A: As Director of External Affairs, I am responsible for resolving business issues between Covad and its vendor, Qwest. This responsibility includes driving resolution on operational, OSS, and billing problems, and negotiating with Qwest so that Covad can pursue meaningful business opportunities in this market. I work with Qwest to resolve operational, OSS and billing issues on a business to business level, in the change management process, at industry workshops, and in interconnection agreement negotiations. In working on these issues, I interface with internal Covad groups dedicated to provisioning Covad service, including services using stand-alone loops (2 wire analog and non-loaded loops and T-1 loops), line shared loops and line split loops.

In my position immediately preceding my current role, my responsibilities included the deployment of Covad's line sharing equipment across the country. I was responsible for the architecture negotiations over the first-ever line sharing agreement with U S WEST (or any ILEC, for that matter) in the country. During

the architecture negotiations, I helped to design the network architecture that is now in place. I have also been involved with the network design negotiations with other ILECs, including BellSouth, Verizon, Sprint and SBC.

Prior to joining Covad, I was employed by US WEST (now Qwest) for 30 years, most recently as Manager, Depreciation and Analysis for the last few years I was employed by US WEST. Prior to that, I worked in Network and Technology Services ("NTS") for several years, providing technical support to U S WEST interconnection negotiation and implementation teams. While working in these two capacities, I provided testimony on technical issues in support of arbitration cases and/or cost dockets in Minnesota, Iowa, Montana, Washington, Oregon, Arizona, New Mexico, Nebraska, Utah, Wyoming, and Idaho. Prior to joining the NTS group, I was responsible for providing technical support for the U S WEST capital recovery program in the areas of switching, transport, and loop. I also worked as a Central Office Technician and Central Office Supervisor at U S WEST.

In addition to the extensive experience described above, I also have worked as a Switch and Transport Fundamental Planning Engineer, where I represented Fundamental Planning as a member of the ONA/Collocation Technical Team; Circuit Administration Trunk Engineer, specializing in switched access services; and Custom Network Design and Implementation Engineer working with the design and implementation of private networks for major customers.

II. INTRODUCTION: PURPOSE AND SUMMARY OF TESTIMONY

Q: WHAT IS THE PURPOSE OF YOUR JOINT TESTIMONY?

A: The purpose of this testimony is to describe why and how there are operational and competitive factors that impair competitive providers in serving the mass market if forced to use UNE-L. We also intend to outline the significant, ongoing operational obstacles Covad faces as it attempts to partner with UNE-P voice providers to offer a bundled voice and data product in Washington. The operational impediments and issues we describe in this testimony are those that must be taken into account when the Commission decides whether competitors really can provide service successfully to the mass market using a UNE-L strategy.

Q. WHAT IS THE GENESIS OF YOUR TESTIMONY?

A. In its Triennial Review Order ("TRO"), the FCC made a national finding that CLECs are impaired without access to unbundled local switching ("UBS") when providing service to the mass market. (TRO, ¶419). The FCC's impairment determination was grounded in economic and operational factors – largely stemming from existing hot cut processes -- that demonstrated, to the FCC's satisfaction, that impairment exists without access to UBS. (TRO, ¶¶461-484). The FCC entertained the possibility, however, that there may be certain situations in particular geographic areas where there would be no impairment without access to UBS. Accordingly, the FCC directed the state commissions, upon petition by a party seeking to overturn the impairment finding, to consider certain economic and operational criteria in determining whether to reverse the national finding of impairment in light of those state-specific factors.

Here, Qwest is challenging the finding that CLECs are impaired without access to UBS. Our testimony is designed to illuminate for the Commission the need to retain UBS unless and until Qwest corrects the operational and competitive

issues that arise in the context of a UNE-L delivery strategy and the associated hot cut procedures that must underlie the UNE-L delivery strategy.

III. UBS IMPAIRMENT AND DATA SERVICES

Q: WHAT ARE THE FACTORS THAT THE FCC IDENTIFIED WHEN FINDING THAT CLECS ARE IMPAIRED WITHOUT ACCESS TO UBS?

A: The FCC described a number of economic and operational factors that create sufficient barriers to entry such that access to UBS is required. In other words, when considering whether CLECs should be required to provide service via a UNE loop (UNE-L) and their own switching facilities, rather than the more operationally efficient and cost-effective UNE platform (UNE-P), which uses the ILEC switch (which is what, after all, this proceeding is about), the FCC identified factors that shed light on whether or not CLECs are impaired without access to UBS. Among other things, the FCC identified Qwest's performance in provisioning loops as a factor impacting the UBS impairment analysis.[1]

Q: WHY SHOULD THE COMMISSION BE CONCERNED ABOUT THE IMPACT ON DATA SERVICES WHEN DECIDING TO RETAIN UBS?

A: There are two reasons why the Commission should take into account the impact on data services when evaluating whether competitors are impaired in serving mass market customers in this state without access to UBS. The first reason is that, in the absence of access to UBS, CLECs can not provide a "line split" DSL service in

[1] Notably, it appears that the FCC did not intend to limit the Commission to looking at just these barriers, since the market definition analysis requires the Commission to look at things like (1) the variation in factors affecting a CLEC's ability to serve each group of customers; and (2) competitors' ability to specifically target and serve markets profitably and efficiently using currently available technologies. Presumably, while the FCC identified a number of "impairment" factors, such factors must also be considered relative to the other factors the FCC identified as being relevant to the definition of the market.

this state, which means that CLECs will be deprived (assuming line sharing is totally eliminated in three years[2]) of the only economically viable means by which they can provide data services to residential customers. Obviously, if the only choice available to residential customers is ILEC data (or even ILEC data and cable data), the monopoly/duopoly that is created will result in residential consumers paying higher prices for their data services.

The second reason is that, from the viewpoint of what consumers want, CLECs must be able to provide a bundled offering that combines voice service with data service. Absent the ability to provide a bundled service, CLECs will be placed at a clear competitive disadvantage to the ILECs, and also face higher churn rates.

Q: PLEASE ELABORATE ON YOUR FIRST POINT REGARDING THE ECONOMICS OF PROVIDING DATA SERVICE TO RESIDENTIAL CUSTOMERS.

A: It is beyond dispute that, right now, the sole vehicle for the provision of residential DSL services is via a line shared or shared loop arrangement. This is true whether you are talking about incumbent or competitive providers. Simply put, given the economics of serving the residential market, the only cost-effective way to provide

[2] The elimination of line sharing violates the plain terms of the 1996 Act and serves no valid policy, which is doubtless why a number of Commissioners expressed reservations about eliminating this requirement. *See* Exhibit MD/MZ-1 at p. 1 ("I do, however, dissent from the Majority's decision to immediately eliminate line sharing as an unbundled network element. Most of our policies to promote the goals of the Telecommunications Act have produced little yield to date. However, line sharing has clear and measurable benefits for consumers."); *see also* Exhibit MD/MZ-2 at p. 7 ("In the end, however, I cannot join the majority's decision to eliminate line sharing because they have not advanced a clear rationale that overcomes the record evidence that line sharing promotes competition and investment"); *see also* Exhibit MD/MZ-3, p. 2 ("I would have preferred to maintain this access … known as line sharing.").

residential DSL service is via a line sharing (CLEC) or shared loop (ILEC) product arrangement.

The numbers bear out the fact that, to date, line sharing is the only way residential customers receive(d) DSL service. There was no competition to provide DSL service before the FCC's line sharing rules allowed new entrants to deploy competitive broadband technologies. *See In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provision of the Telecommunications Act of 1996*, Third Report and Order, 14 FCC Rcd. 20,912, ¶¶32-33, 40 (December 9, 1999). Because of the billions of dollars invested by data CLECs relying on line sharing, residential DSL service grew over *5000 percent* in three years, from an initial 115,000 lines, to over 6.5 million lines at the end of 2002. The FCC's own studies show that for every line shared DSL line, ILECs responded by deploying four retail DSL lines. *See* Exhibit MD/MZ-4.

Despite this evidence, the FCC determined that CLECs are not impaired without access to the line shared loop, and instructed them to undertake the transition of the line shared loop customer base by the end of three years to alternative arrangements – either to provide DSL over the entirety of the unbundled loop or to partner with other voice CLECs and provide voice and data over a "line split" loop. *See* TRO, ¶¶258-59. Obviously, because of the economics of providing data service as discussed above, the only way a CLEC can economically provide data services to residential customers, after line sharing is

presumably phased out, is via line splitting, since the cost structure for line splitting is identical to that of line sharing.[3]

Q. WHAT IS THE DIFFERENCE BETWEEN A "LINE SHARED" LOOP, A "LINE SPLIT" LOOP, AND A "LOOP SPLIT" LOOP?

A. Line sharing is the arrangement in which the ILEC (Qwest) provides the end user with Qwest retail voice service, and a data CLEC (Covad) provides the end user with DSL service, using a single 2-wire loop to the customer premises. Line splitting is an arrangement in which a voice CLEC (e.g. AT&T or MCI) using UNE-P partners with a data CLEC (Covad) to provide the end user with a bundled voice and data service, again using a single 2-wire loop to the customer premises. Loop splitting is similar to line splitting, with one minor difference. Loop splitting is an arrangement in which a voice CLEC (e.g. AT&T or MCI) using UNE-L partners with a data CLEC (Covad) to provide the end user with a bundled voice and data service, again using a single 2-wire loop to the customer premises with the dial tone, or voice service, coming from the CLEC switch. In all three arrangements, the voice is transmitted over the low frequency portion of the loop and data service is provisioned over the high frequency portion of the loop.

Q: HOW DOES LINE SPLITTING RELATE TO UBS?

A: Line splitting, which is virtually technically identical to line sharing, involves the provision of voice service by a competitor over the UNE-P. If there is no UBS,

[3] *See* Testimony of K. Malone, May 21, 2002, at pp. 75-76, in *In the Matter of the Commission's Review and Investigation of Qwest's Unbundled Network Element (UNE) Prices*, PUC Docket No. P-421/CI-01-1375; OAH Docket No. 12-2500-14490-2, ("In one of the orders in this particular case we were asked to provide application or rate elements for line splitting. So this is just in response to that, saying that the rate elements would be the same as line sharing, and the line sharing rates have been previously approved in an earlier docket.").

there is no UNE-P and, hence, no line splitting. So, following that logic to its conclusion, in the absence of UBS, CLECs will be unable to economically provide a residential DSL product, competitive forces will cease to exist in the residential market, and residential DSL rates will go up.

Q: PLEASE ELABORATE ON YOUR SECOND POINT REGARDING THE IMPORTANCE OF CLEC ABILITY TO OFFER BUNDLED SERVICES.

A: The future of voice competition in the Washington mass market hinges upon the ability of competitors to provide a bundled voice and data product—via line splitting—in competition with the voice and data bundles currently being provided by Qwest. Currently, Qwest's discriminatory line splitting ordering and migration operations and OSS in Washington constitute a barrier to entry, and almost certainly guarantee that competitors cannot profitably offer line splitting in Washington. Ensuring that Qwest's line splitting operations and OSS are both adequate and nondiscriminatory is an essential predicate to Washingtonians receiving the benefits of competition in the growing market for bundled voice and data products. Because Qwest does not currently have operations and OSS to adequately support line splitting ordering and migrations, or UNE-P line splitting to UNE-L loop splitting ordering and migrations, CLECs are impaired without access to line splitting over UNE-P.

Q. WHY DOES THE FUTURE OF VOICE COMPETITION IN THE MASS MARKET HINGE UPON THE ABILITY OF COMPETITORS TO PROVIDE A BUNDLED VOICE AND DATA OFFERING VIA LINE SPLITTING?

A. The rapid transition from separate, standalone voice and data services to one, singled bundled voice and data service cannot be seriously disputed. Newspaper articles, analyst reports and carrier advertisements regularly tout voice and data bundles as the "next wave." For example, J.P. Morgan Securities, Inc. reports that "By 2006, we expect that half of all consumers will be taking a bundle in some form or another from an ILEC or an IXC [CLEC]," and that "over 50% of customer[s] [will] purchase[s] bundled services from a single carrier by 2006." *See* Exhibit MD/MZ-5 at pp. 11 and 1.

Moreover, J.P. Morgan further reports that:

> The market for broadband Internet access is expected to balloon over the next several years, as customers continue to migrate from dial-up service and first-time users sign up for Internet service. We estimate that current penetration, at 10% of households, is expected to rise to roughly 30% by 2006, with DSL capturing roughly a third of this growing market.

Id., p. 6. Thus, J.P. Morgan reports that "while most DSL customers are currently on standalone service plans, over the next several years, we expect to see penetration of bundled offerings for DSL customers to rise significantly." *Id.*, p. 12. Accordingly, J.P. Morgan predicts that by 2006, 55% of all DSL will be bundled with voice offerings. *Id.* at Table 3.

Q. ARE THE ILECS BUNDLING VOICE AND DATA SERVICES?

A. Yes. In a section of the report entitled, "ILECs Bundle to Defend Their Crown Jewels – Local Voice," J.P. Morgan reports that "ILECs are reciprocating by bundling their local and long distance services together with DSL and wireless in an effort to both drive greater penetration of these services, but more importantly,

defend their market share of the large and highly profitable local voice segment of the industry." *Id.*, p. 10.

Q. WHAT BENEFITS HAVE BEEN IDENTIFIED BY CARRIERS WITH RESPECT TO PROVIDING CONSUMERS WITH VOICE AND DATA BUNDLES?

A. SBC has been the most open about the advantages entailed by providing a bundled offering. During its 2003 Analyst Conference presentation, SBC noted the increased revenue derived from voice and data bundling. *See* Exhibit MD/MZ-6. In addition, SBC noted that DSL "drives even lower access-line churn and higher ARPU as share increases." *Id.*, p. 4. Most importantly, particularly when we consider the impediments facing CLECs on the churn front, SBC reported that churn is reduced by 61% if the customer obtains local voice and DSL from SBC, and that churn is reduced by 73% if the customer obtains local voice, long distance voice, and DSL from SBC. *Id.*, p. 6.

IV. INADEQUACY OF, AND DISCRIMINATION IN, QWEST'S LINE SPLITTING OSS AND PROCESSES

Q. DESCRIBE WHY QWEST'S LINE SPLITTING PROCESSES GENERALLY ARE INADEQUATE AND DISCRIMINATORY.

A. Before a data CLEC can submit a new UNE-P line splitting order with Qwest (i.e., the addition of data to the UNE-P), the corresponding voice order must already be completed by Qwest. Unlike Qwest's Retail arm, competitors cannot bundle voice and data easily via line splitting because two (2) orders must be submitted, rather than simply one (1) order as Qwest does. The CLEC data order cannot be submitted until the voice order or migration is complete and the customer service

record (CSR) is updated in Qwest's systems, which can take anywhere from three to five days. Qwest's Retail arm, on the other hand, takes one order to manage the entire process. In addition, Qwest requires that the LSRs be submitted using the customer of record's account thus requiring the DLEC to have system log in for every CLEC with whom it partners. Thus, even if UBS is retained in this state, it is imperative that Qwest be required to correct these ordering and provisioning problems. That is to say, Qwest must be required to allow CLECs to order line splitting via a single order that provisions the voice and data simultaneously so that CLECs can compete successfully with Qwest in providing service to residential customers in this state.

Q. ARE QWEST'S LOOP SPLITTING PROCESSES AND OSS ANY BETTER?

A. No. Just like UNE-P line splitting, before a data CLEC can submit a new loop splitting order with Qwest (i.e., the addition of data to the UNE-L), the corresponding voice order must already be completed by Qwest. Again, unlike Qwest's Retail arm, competitors cannot bundle voice and data easily via loop splitting because two (2) orders must be submitted, rather than simply one (1) order as Qwest does. The CLEC data order cannot be submitted until the voice order or migration is complete and the CSR is updated in Qwest's systems, which, as I stated earlier, can take anywhere from three to five days. Qwest's Retail arm, on the other hand, uses one order to manage the entire process. Thus, even if UBS is retained in Washington state, it is imperative that Qwest be required to correct these ordering and provisioning problems. That is to say, Qwest must be required to allow CLECs to order loop splitting via a single order that provisions the voice

and data simultaneously so that CLECs can compete successfully with Qwest in providing service to residential customers in Washington.

Q. AREN'T THERE PENDING CHANGE REQUESTS ("CRs") THAT MIGHT ALLEVIATE THESE ORDERNIG ISSUES?

A. We are doubtful that the systems CRs necessarily will correct these problems, or at least correct these problems in a timely fashion.[4] Qwest informed CLECs at the most recent change management forum that it will only support 2 IMA releases next year (as opposed to three in years past) and that those releases will be issued in April and October 2004. Qwest is also reducing by 40% the development hours allocated to the IMA releases so that, instead of having 120,000 hours available, Qwest is only willing to allocate 70,000 hours.

The ramifications of Qwest's decision to reduce in number and size its IMA releases for 2004 are two-fold. First, it is uncertain whether the systems CR that would allow a CLEC to place voice and data for a UNE-P line splitting order simultaneously will actually be put into place. More problematically, the systems CR that would allow a CLEC to place voice and data orders for UNE-L loop splitting is still under discussion. So, in addition to whether the reduction in hours will result in this CR being excluded from any of the 2004 IMA releases, it is virtually certain that it will not make it into the April IMA release since the parties have not even completed discussion on this CR.

[4] The ability to order line splitting and loop splitting on a single LSR basis originally was scheduled to be included in the IMA 13.0 release on August 4, 2003. Per an "event notice," however, this ability was delayed for several months, and is currently tentatively targeted for the IMA 15.0 release. Notably, however, despite the delay in allowing CLECs the ability to order line splitting and loop splitting on a single LSR, the ability on Qwest's part to place a single order to provision DSL and voice to a Qwest retail customer was included in that August 13.0 release.

Notably, even though Qwest (assuming it is successful in reversing the impairment finding) would have to have in place all the necessary systems and processes for UNE-L loop splitting by July 2004, it likely will not have the UNE-L loop splitting CR in place, and probably won't have the UNE-P line splitting CR in place, until at least October, which reflects a minimum of a four-month delay in implementing all changes required as a result of the TRO -- to the detriment of CLECs.

Q. SO QWEST'S OSS WILL ENSURE THAT CLECS USING EITHER A UNE-P OR A UNE-L DELIVERY STRATEGY WILL BE AT A COMPETITIVE DISADVANTAGE TO QWEST?

A. Absolutely. The time delays and associated service disruptions that are inherent in the current UNE-P line splitting and UNE-L loop splitting OSS and processes will result in CLECs being a "day late and a dollar short."

V. LINE SPLITTING MIGRATIONS AND THE QWEST HOT CUT PROCESS

Q. PLEASE DISCUSS THE HOT CUT ISSUE.

A. A "hot cut" describes the cut-over of a working loop from one carrier's switch to another carrier's switch with little to no disruption of service. Today, hot cuts are ordered primarily by voice carriers. As it pertains to the TRO, the FCC required ILECs to implement "batch" hot cut processes that will efficiently and economically allow the mass migration of existing customers from one switch to another, the mass installation of new customers on a carrier's switch, and the associated daily churn volumes that are inevitable in any market. (TRO, ¶¶ 487-490.)

Q. DESCRIBE WHY HOT CUTS FOR VOICE AND DATA ARE IMPORTANT TO CONSUMERS.

A. All customers will want a seamless migration of voice *and* data services should the need arise to convert from UNE-P line splitting to UNE-L loop splitting. Customer expectations with respect to migrating data services are the same as customer expectations regarding migrating features or functionality. UNE-P line splitting customers who find themselves involved with a conversion to UNE-L will demand, and rightfully so, to have both voice and data migrated with minimal interruption. As such, CLECs are impaired as a result of Qwest's lack of an efficient line splitting migration processes.

Q. QWEST'S HOT CUT PROCESSES FOR UNE-P LINE SPLITTING TO UNE-L LOOP SPLITTING ARE INADEQUATE, AREN'T THEY?

A. Customers enjoy the benefits of competition by changing providers to obtain the best services at the lowest prices. An efficient OSS and supporting processes allow customers to quickly and inexpensively change providers by allowing CLECs to submit a single order to migrate an end user from one voice and data arrangement to another. However, Qwest currently has no migration process in place for a single order UNE-P line splitting to UNE-L loop splitting conversion for individual customers. So, today, the only way to transfer just one customer from a UNE-P line splitting to UNE-L loop splitting arrangement is to first, submit an order to cancel the UNE-P line splitting arrangement and, second, resubmit a new order to install a new UNE-L line splitting arrangement. Other than the obvious issue of having to submit two orders, this scenario also causes extended interruptions to the end user's data services and it is doubtful that Qwest could

handle the commercial volumes transacted in today's UNE-P environment. So, what we see is a "process" that is not in place, is not efficient, and certainly does not permit a "hot" conversion from UNE-P to UNE-L. Even on a single order basis, therefore, there are severe operational impediments that place CLECs at a competitive disadvantage to Qwest because of the necessary disruption to service, with consequent customer loss, when converting from UNE-P to UNE-L.

Q. ARE THE PROBLEMS WITH THE MIGRATION PROCESS YOU DISCUSS ABOVE RESOLVED IN ANY WAY BY THE QWEST BATCH HOT CUT PROCESS?

A. No. And, in fact, the problems are even more significant when looking at Qwest's supposed batch hot cut process. In light of the potential conversion of numerous customers from UNE-P to UNE-L, the capability of the Qwest systems and procedures to support existing, new, and churn hot cuts for all services actually or sought to be provided is of paramount importance if a UNE-L strategy is to be used successfully by CLECs. Already, after the first Batch Hot Cut Forum in Denver on December 1-3, 2003, it is clear that Qwest is not willing (and therefore probably unable) to design, implement, and support an adequate batch hot cut process.

First, Qwest has made clear that it will not include data services in the hot cut scenario. Specifically, Qwest has stated that it will not include any lines currently involved in line sharing or line splitting arrangement, and has strictly limited the types of services that can be migrated via a batch hot cut.

Qwest's processes, unfortunately, assume a homogenous customer base -- that is, a customer base in which no one wants or needs data. We know, however,

that the demand for data services, and particularly DSL service, has skyrocketed. For instance, in the FCC's broadband report of June 10, 2003, the FCC reported that ADSL high speed lines grew by 27% in the second half of 2002, with the full year's increase being 64%. ADSL advanced service lines grew by 52% during the last half of 2002, with the full year's increase being 105%. From a total numbers perspective, the number of ADSL lines increased in 2002 from 3.9 million lines to 6.5 million lines. *See* Exhibit MD/MZ-7, pp. 1-2. And in the state of Washington, 45% of consumers who have high speed internet access have that access as a result of a line shared DSL service. *Id.* at Table 7. Clearly, therefore, hot cut processes that are so specifically designed to undercut competitors' ability to provide service to an aggressively growing customer base is outright anti-competitive and nothing more than a thinly veiled attempt to knee-cap competitors attempting to provide comparable service offerings.

Second, Qwest has also stated that it will not support CLEC to CLEC migrations unless such migration can be accomplished without a truck roll and there are no other anticipated problems. Obviously, if Qwest will not support that kind of hot cut, then it is impossible for consumers to easily and quickly migrate service from one competitor to another. If the UNE loop to the customer's premise is to be truly portable so that consumers can quickly, easily, and without disruption change their service providers, the Commission must require Qwest to include data and CLEC to CLEC migrations in its hot cut scenarios.

These two limitations clearly demonstrate that Qwest's hot cut processes are designed to substantially eliminate the number of customers eligible for a batch hot cut from Qwest to CLECs or from CLEC to CLEC – which is an anachronistic

result when considering that the FCC instructed ILECs to improve their hot cut processes in order to eliminate the operational and economic impediments to successful use of a UNE-L delivery strategy. Consequently, either UBS must be retained in this state because impairment so obviously exists, or Qwest should be ordered to design, implement and successfully test hot cut processes that include both data services and CLEC to CLEC migrations.

Q. WHY IS QWEST'S EXCLUSION OF DATA FROM THE BATCH HOT CUT PROCESS UNREASONABLE?

A. Qwest claims that significant efficiencies would be lost if data services were included, thus resulting in a more expensive process and associated higher rates. In reality, the inclusion of data really only means that Qwest would have to make one additional cross-connect in the central office. This additional work, and any cost associated with it, is more than outweighed by the economies of scale and reduction in costs associated with a batch hot cut process. More importantly, when evaluating whether there is any merit to Qwest's claim about increased costs, it is important to keep in mind that the additional activity required to include data is the direct result of a Qwest decision that is out of step with what the other ILECs have done. That is, had Qwest made the decision to use the same OSS for the provisioning of UNE-P as for UNE-L, as most other ILECs have done, the migration from line splitting to loop splitting could be accomplished by removing and replacing a single cross-connect. In any event, the inclusion of data in the batch hot cut process would require a minimal amount of additional work. One additional cross-connect would need to be placed and a data continuity test would have to be performed -- all of which would take place in the central office by one

or two technicians. These are not significant work functions and should not be used as an excuse for the exclusion of data migrations.

Q. WHAT ADDITIONAL PROBLEMS DO YOU SEE WITH QWEST'S PROPOSED BATCH HOT CUT PROCESS?

A. Qwest explained that the cost reduction anticipated by its proposed batch hot cut process is based on the elimination of both pre-wiring and pre-testing of the lines to be cut. The removal of these steps makes no sense, particularly for Mr. Zulevic, given his many years of involvement with large customer hot cuts. In fact, the performance of these functions in advance decreases the amount of time taken on the day of cut as potential day-of-cut problems can be addressed in advance and worked in conjunction with the normal work process. By not doing the pre-test and pre-wiring, the only thing that will be ensured is that adverse customer impacts will be commonplace. Qwest's advocacy for removing these two essential steps is totally without merit as the end result will be to add cost and negatively impact the CLEC customer.

Q: YOU'VE DISCUSSED THE OPERATIONAL ISSUES ASSOCIATED WITH QWEST'S LINE SPLITTING AND LOOP SPLITTING MIGRATION PROCESSES. ARE YOU ALSO ADDRESSING COST ISSUES?

A. Not specifically at this time (although we have addressed some of the cost-related issues raised by Qwest in its attempt to eliminate data from the hot cut process). However, we reserve our right to comment on the cost of the hot cut processes once we have seen Qwest's final BHC proposal and the associated proposed rates.

Q. WHAT CONCLUSIONS SHOULD THE COMMISSION DRAW FROM YOUR TESTIMONY?

A: The ultimate goal of competition is to give customers choices of providers, innovative services, and competitive prices. Qwest's current "process" for UNE-P line splitting customers to UNE-L loop splitting customers ensures a difficult, if not horrific, customer service experience. Unless Qwest develops, tests, and implements a process to perform hot cuts to migrate efficiently and economically a UNE-P line splitting arrangement to a UNE-L loop splitting arrangement, Covad and its voice partners are impaired with access to UBS. Accordingly, until this Commission approves a hot cut and batch hot process for voice plus data loops that is sufficient to eliminate such impairment, unbundled local switching for the mass market customers cannot be eliminated as a UNE when UBS is used to provision a line splitting arrangement. Indeed, if the Commission were to eliminate CLEC UNE access to UBS before resolving all the provisioning and hot cut problems described in our testimony, CLECs' ability to provide Washington consumers with competitive voice and data services would cease.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. This concludes our Direct Testimony, however, we anticipate filing all responsive testimony permitted by the Commission, and being presented for cross examination at the hearing on the merits.