

**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 )**

**REBUTTAL TESTIMONY**

**OF**

**BARBARA J. BROHL**

**QWEST CORPORATION**

**February 28, 2001**

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**I. IDENTIFICATION OF WITNESS**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

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

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

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

**Q. HAVE YOU FILED TESTIMONY IN THIS PROCEEDING BEFORE?**

A. Yes. I filed Supplement Direct Testimony on January 8, 2001 regarding line splitting. At that time, I also adopted the Supplemental Direct Testimony of Perry Hooks, Jr. filed on October 19, 2000 in its entirety.

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

A. The purpose of my testimony is to respond to and rebut testimony filed by Jing Y. Roth of the Commission Staff, Mr. Roy Lathrop of WorldCom, and Mr. Joseph Gillan of AT&T. Specifically, I will: 1) discuss the line splitting obligations as a result of the Line Sharing Reconsideration Order; 2) address requests to establish additional requirements with respect to the voice splitter; and 3) make recommendations to the Commission that a collaborative process be commenced to address operational issues.

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**II. LINE SPLITTING OBLIGATIONS**

**Q. ON PAGE 2 OF HER SUPPLEMENTAL TESTIMONY, MS. ROTH  
ASSERTS THAT QWEST TESTIFIED THAT IT WAS NOT OBLIGATED  
TO PROVIDE LINE SPLITTING. IS THAT ACCURATE?**

A. No. As Mr. Hooks stated in his Supplemental Direct Testimony dated October 19, 2000, and I stated in my Supplemental Direct Testimony dated January 8, 2001, in accordance with the FCC, Qwest has agreed to permit CLECs to engage in line splitting over the UNE-P (unbundled network element - platform) where the CLEC purchases the entire loop and provides its own splitter.

**Q. IN ITS MOST RECENT ORDER ON LINE SHARING, DID THE FCC  
SHED ANY LIGHT ON THIS ISSUE?**

A. Yes. First, we must bear in mind that the most recent line sharing order was not released until January 19, 2001, after both Mr. Hooks and I had already submitted testimony relating to line splitting. In any event, the FCC clarified that "incumbent LECs have a [current] obligation to permit competing carriers to engage in line splitting using the UNE-platform where competing carrier purchases the entire loop and provides its own splitter."<sup>1</sup>

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<sup>1</sup> In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order On Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC



1 A. No. While the Washington Commission may establish additional requirements, it  
2 must do so only after it has applied the "necessary and impair" standard. It is a very  
3 strict standard. In its UNE Remand Order, the FCC concluded that:

4 a proprietary network element is "necessary" within the meaning  
5 of section 251 (d)(2)(A), if taking into consideration the  
6 availability of alternative elements outside the incumbent's  
7 network, including self-provisioning by a requesting carrier or  
8 acquiring an alternative from a third-party supplier, lack of access  
9 to that element would, as a practical, economic, and operational  
10 matter, preclude a requesting carrier from providing the services it  
11 seeks to offer. We agree . . . that the proper focus on the  
12 "necessary" standard is whether access to the incumbent LEC's  
13 proprietary element is absolutely required for the competitor's  
14 provision of its intended service. We find, therefore, that an  
15 incumbent LEC must provide access to a proprietary element, if  
16 withholding access to the element would prevent a competitor  
17 from providing the service it seeks to offer.<sup>4</sup>

18 In addition, the FCC concluded that:

19 the failure to provide access to a network element would "impair"  
20 the ability of a requesting carrier to provide the services it seeks to  
21 offer if, taking into consideration the availability of alternative  
22 elements outside the incumbent's network, including self-  
23 provisioning by a requesting carrier or acquiring an alternative  
24 from a third-party supplier, lack of access to that element  
25 materially diminishes a requesting carrier's ability to provide the  
26 services it seeks to offer. We find that the materiality component,  
27 although it cannot be quantified precisely, requires that there be  
28 substantive differences between the alternative outside the  
29 incumbent LEC's network and the incumbent LEC's network

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<sup>3</sup> Line Sharing Reconsideration Order ¶25.

<sup>4</sup> 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 ¶44 (rel. Nov. 5, 1999) (UNE Remand Order).

1 element that, collectively, "impair" a competitive LEC's ability to  
2 provide service within the meaning of section 251 (d)(2).<sup>5</sup>

3  
4 **Q. EXPLAIN WHY YOU BELIEVE THAT REQUIRING THE ILECS TO**  
5 **PROVIDE THE VOICE SPLITTERS WILL NOT PASS THE NECESSARY**  
6 **AND IMPAIR STANDARD.**

7 A. For purposes of this test, the voice splitter is not a proprietary element and  
8 therefore, does not need to pass the "necessary" prong. As I stated in my  
9 Responsive Direct Testimony dated January 8, 2001, the FCC recognized that the  
10 equipment to provide advanced services (e.g., xDSL) is available on the open  
11 market at comparable prices to ILECs and CLECs alike.<sup>6</sup> A voice splitter is but one  
12 of the pieces of equipment used to provide advanced services. In addition, ILECs  
13 and data CLECs have been purchasing voice splitters to provide their respective  
14 types of xDSL service (e.g., Qwest uses an integrated voice splitter/DSLAM, while  
15 the data CLECs use a standalone voice splitter). In other words, a voice splitter is a  
16 cost of doing business when the business you want to be in is offering xDSL  
17 services. This type of equipment is available on the open market at prices that are  
18 comparable to both ILECs and CLECs. As a result, a lack of access to Qwest's  
19 voice splitter would not materially diminish the UNE-P CLEC's ability to provide  
20 xDSL service. It is actually materially indifferent because both Qwest and the

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<sup>5</sup> UNE Remand Order ¶51.

<sup>6</sup> UNE Remand Order ¶308.

1 UNE-P CLECs can obtain voice splitters from third-party vendors in a  
2 competitively neutral manner.

3 **Q. ON PAGE 3, MR. JOSEPH GILLAN CLAIMS THAT THE FCC HAS NOT**  
4 **RULED AGAINST HIS RECOMMENDATIONS, RATHER IT HAS**  
5 **DEFERRED THEM TO LATER PROCEEDINGS. DO YOU AGREE?**

6 A. Partially. To fully understand what the FCC has ruled on, it is important to look at  
7 each assertion by itself. First, Mr. Gillan states that the FCC has deferred the  
8 ownership of the voice splitter to a later proceeding. That is accurate, however, at  
9 this time, there is still no obligation to provide the voice splitter. While it is also  
10 accurate that the FCC at a later date, or this Commission in this proceeding, can  
11 require this additional requirement, the requirement must still pass the necessary  
12 and impair standard. Second, he requests that this Commission require reuse of the  
13 voice splitters. However, as I stated earlier, Qwest does not use standalone splitters  
14 - it uses an integrated voice splitter/DSLAM. To be able to provide a voice splitter  
15 that the UNE-P CLECs can use, Qwest would have to go out and purchase one  
16 solely for their use. Third, he asks this Commission to prohibit Qwest from  
17 terminating its data service when an end-user customer migrates to another voice  
18 provider. Here, the FCC has spoken and quite clearly. In paragraph 26 of the Line  
19 Sharing Reconsideration Order, the FCC stated:

20 As described above, we deny AT&T's request for clarification that  
21 under the Line Sharing Order, incumbent LECs are not permitted  
22 to deny their xDSL services to customers who obtain voice service  
23 from a competing carrier where the competing carrier agrees to the



1 use of its loop for that purpose. Although the Line Sharing Order  
2 obligates incumbent LECs to make the high frequency portion of  
3 the loop separately available to competing carriers on loops where  
4 incumbent LECs provide voice service, it does to require that they  
5 provide xDSL service when they are not (sic) longer the voice  
6 provider.<sup>7</sup>

7 **IV. OPERATIONAL CONCERNS**

8 **Q. MS. ROTH EXPRESSES CONCERNS ABOUT THE PROGRESS OF THE**  
9 **DEVELOPMENT OF THE LINE SPLITTING PRODUCT AND**  
10 **PROCESSES IN THE ABSENCE OF A COMMISSION-MANDATED**  
11 **SCHEDULE. AS A RESULT, SHE RECOMMENDS THAT THE**  
12 **COMMISSION ESTABLISH A TIME SCHEDULE FOR ADDRESSING**  
13 **THE OPERATIONAL ISSUES SURROUNDING LINE SPLITTING. DO**  
14 **YOU AGREE?**

15 A. No. At this time, this Commission does not have enough information to create an  
16 appropriate schedule, and quite frankly, neither do Qwest and the CLECs. Qwest  
17 would propose that, in the alternative, the Commission require the parties to begin  
18 the collaborative discussions needed to identify and resolve the operational issues  
19 surrounding line splitting, which will then result in a deployment schedule. This  
20 recommendation is further supported by the FCC in its Line Sharing  
21 Reconsideration Order, where it strongly urged "incumbent LECs and competing  
22 carriers to work together to develop processes and systems to support competing  
23 carrier ordering and provisioning of unbundled loops and switching necessary for

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<sup>7</sup> Line Sharing Reconsideration Order ¶26 (emphasis added).

1 line splitting."<sup>8</sup> This would mirror the process utilized by Qwest and the data  
2 CLECs in development of the line sharing product, which proved to work very  
3 well.

4 **Q. HOW DO YOU RECOMMEND THAT THE COLLABORATIVE**  
5 **DISCUSSIONS OCCUR?**

6 A. The FCC encourages the incumbent LECs and competing carriers to use existing  
7 state collaboratives and change management processes to address line splitting  
8 operational issues.<sup>9</sup> Therefore the 271 workshops would be the likely place to start  
9 those discussions, particularly because the terms and conditions of the other  
10 interconnection, collocation, UNE, and resale products are being negotiated there.  
11 If that does not prove to be feasible, then, as I stated in response to data requests,  
12 Qwest would be willing to host this effort in a forum that is similar to the one that  
13 occurred with line sharing.

14 **V. CONCLUSION**

15 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

16 A. First, I discussed the line splitting obligations as a result of the Line Sharing  
17 Reconsideration Order and Qwest's obligation to permit line splitting to voice  
18 CLECs using UNE-P. Next, I discussed the fact that there is still no current  
19 obligation to provide the voice splitter, and to create one, this Commission must

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<sup>8</sup> Line Sharing Reconsideration Order ¶21.

1 apply the necessary and impair standard. Finally, I requested that this Commission  
2 decline to order a time line for deployment of line splitting, rather that it require a  
3 collaborative process to commence whereby the parties can determine the  
4 operational issues and negotiate resolutions.

5 **Q. WHAT DOES QWEST RECOMMEND TO THIS COMMISSION?**

6 A. Qwest recommends that this commission decline to require Qwest to deploy voice  
7 splitters for CLECs utilizing line splitting, and that it allow a collaborative process  
8 to determine the operational impacts and subsequent deployment schedule.

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

10 A. Yes, it does.

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<sup>9</sup> Line Sharing Reconsideration Order ¶21.