EXHIBIT LBB-8T
(Exhibit No. Corrected: March 15, 2001)

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE CONTINUED COSTING AND PRICING OF UNBUNDLED NETWORK ELEMENTS, TRANSPORT AND TERMINATION	**)** **)** **)** **)**	**DOCKET NO. UT 003013 PHASE B**

REBUTTAL TESTIMONY OF

LARRY B. BROTHERSON

ON BEHALF OF

QWEST CORPORATION

FEBRUARY 7, 2001

I. INTRODUCTION

Q. ARE YOU THE SAME LARRY BROTHERSON WHO HAS FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

Q. HAVE YOU REVIEWED THE TESTIMONY OF DR. BLACKMON, MR. ARGENBRIGHT AND MR KNOWLES THAT WAS FILED IN THIS CASE?

A. Yes.

Q. DO YOU HAVE RESPONSES TO THEIR TESTIMONY REGARDING ISSUES RELATING TO RECIPROCAL COMPENSATION?

A. Yes, I will address each witnesses' testimony separately.

Q. DO OTHER QWEST WITNESSES ADDRESS TESTIMONY FILED IN THIS DOCKET?

A. Yes. Dr. William Taylor will respond to testimony concerning the economic and policy issues arising from the application of reciprocal compensation to Internet traffic.

II. RECIPROCAL COMPENSATION

Q. WITH RESPECT TO THE RESPONSIVE TESTIMONY FILED BY DR. BLACKMON, DO YOU AGREE OR DISAGREE WITH HIS COMMENTS REGARDING RECIPROCAL COMPENSATION?

A. In many respects, I agree with Dr. Blackmon. We are in agreement that the reciprocal compensation rates established for terminating local voice calls do not accurately reflect the

costs of trunk-to-trunk switching of Internet-bound traffic or delivering Internet Service Provider ("ISP") traffic from a CLEC switch to an ISP switch.

We disagree on a very fundamental principle -- whether or not Internet calls are local calls that terminate in the local calling area and are thus subject to reciprocal compensation. Dr. Blackmon starts with the premise that Internet calls terminate in the local calling area. He then discusses the unique aspects of Internet calls and various methods of billing local call termination rates for Internet traffic that are different from the rates for traditional voice calls. While I would not disagree with Dr. Blackmon's analysis if, in fact, Internet calls were local, I disagree with the underlying premise that they are local. That is at the heart of the Qwest position.

Q. DOES QWEST BELIEVE THAT INTERNET TRAFFIC TERMINATES IN THE LOCAL EXCHANGE?

A. No. Dr. Blackmon states that the question before the WUTC is what compensation should be paid to the *terminating carrier*.

He also discusses compensating other carriers for the cost of terminating Internet-bound traffic. Internet calls do not terminate at the CLEC switch, or even the ISP switch in the state for that matter, but, rather, the traffic is routed on to other interstate locations on the worldwide web. In its ISP Order, the FCC specifically ruled that these calls do not terminate at the ISP, but rather, typically terminate at web sites located in other states or countries. For this reason, the FCC concluded that Internet calls are predominately interstate in nature.

In addition to the fact that a large percentage of Internet calls terminate at web sites located in other states and countries, most Internet calls that are placed in Washington are routed through remote hubs that are located outside the state. Upon receiving a call, an ISP must deliver it over the Internet backbone to a remote hub specified by the URL address that the originating end-user designates. The remote hubs – also referred to as Network Access

Points and Metropolitan Area Exchange locations – in the continental United States are located in Chicago, New York, Washington, D.C., Houston, Dallas, Los Angeles, San Jose, and San Francisco. For ISPs in Washington, the closest remote hubs are in California. Many Internet calls placed by end-users in Washington are routed to one of these remote hubs.

Q. DOES AN INTERNET-BOUND CALL TERMINATE AT THE ISP PREMISES?

A. No. With an Internet call, the calling party expects to "talk" over the worldwide web, not to a person at the ISP premises. A calling party typically wants to actually talk to the ISP only for administrative purposes, e.g., technical support, repair or billing problems. These administrative lines are listed separately to allow the calling party to speak to a human, not to "speak to a computer."

Q. PLEASE RESPOND TO MR. ARGENBRIGHT'S STATEMENT THAT THE D.C. CIRCUIT OVERTURNED THE FCC'S DECISION REGARDING THE INTERSTATE NATURE OF ISP TRAFFIC.

A. First, my understanding is that the D.C. Circuit did not overturn the FCC's ultimate conclusion that Internet-bound traffic is interstate. Rather, the court remanded that conclusion for further explanation and justification. While not legally binding, the FCC's conclusion about the interstate nature of Internet traffic is nevertheless instructive.

Q. MR. ARGENBRIGHT STATES THAT QWEST ASSERTS THAT ACCESS CHARGES SHOULD APPLY TO INTERNET-BOUND CALLS. IS THIS STATEMENT CORRECT?

A. No. Mr. Argenbright mistakenly assumes that Qwest believes that access charges should apply to internet-bound calls. That is not the case. Qwest clearly recognizes that Enhanced Services traffic is currently exempt from access charges, but that absent the ESP exemption, calls to ISPs *would* be subject to access charges. In this proceeding, I make the

point that because of that exemption the CLEC can not charge access charges to ISPs. The fact that the CLEC's normal source of recovery is prohibited, however, should not result in the CLEC being able to require Qwest to pay the CLEC's costs through reciprocal compensation. The WUTC should not place the entire burden upon one local provider that has also incurred unrecoverable expenses cause by the ESP exemption.

Q. DOES QWEST INCUR ADDITIONAL COSTS TO HANDLE INTERNET-BOUND TRAFFIC?

A. Yes. As Dr. Blackmon correctly observes, Qwest incurs costs to provide sufficient infrastructure to accommodate the increase in the origination side of Internet calling. He also correctly observes that these costs would have occurred with or without CLEC competition. However, the CLECs should recover their portion of the costs to carry the increased traffic to the ISP from the ISPs, not from Qwest, in the same manner that Qwest recovers its costs from its customers. Dr. Blackmon states that it is good policy to set prices so that they cover costs, and I agree. CLECs should set their price to cover their costs.

Q. WHAT IS THE MAGNITUDE OF THE INFRASTRUCTURE COSTS THAT QWEST HAS INCURRED IN WASHINGTON AS A RESULT OF THE DEMANDS PLACED ON THE NETWORK BY INTERNET TRAFFIC?

A. Qwest does not specifically track the relationship between network investments and the increased network demands caused by Internet traffic. However, at the same time that use of the Internet has grown dramatically in recent years, Qwest's annual investments in network infrastructure in Washington have increased significantly. I do not contend that all of the increases in network investment have been in response to Internet traffic, but it is clear that use of the Internet has increased network usage and, in turn, required more infrastructure. For example, Qwest’s investment in the Washington network for interoffice facilities grew substantially from 1997 to 2000. Similarly, investment for switching

facilities more than doubled from 1997 to 2000. (Please see Exhibit LBB-9C.) Again, I do not contend that all of this increased investment is the result of Internet traffic, but it should not be disputed that the there is a relationship between this investment and the rise in Internet use in recent years.

Q. IN THE EVENT THAT THE WUTC SHOULD DETERMINE THAT RECIPROCAL COMPENSATION IS APPROPRIATE FOR INTERNET-BOUND TRAFFIC, HOW SHOULD THE RECIPROCAL COMPENSATION RATE BE CALCULATED?

A. I believe that the "ISP" reciprocal compensation rate that Dr. Blackmon suggests should be based on the cost of the CLEC or ILEC to provide the trunk-to-trunk switching to the ISP. The testimony of Mr. Blackmon supports the notion that the cost to carry data traffic to an ISP located near the switch over large PRI trunks is lower than the cost to carry voice traffic over the public switched telephone network to end users..

III. TANDEM/END OFFICE RATES

Q. MESSRS. KNOWLES AND ARGENBRIGHT STATE THAT THE CLEC IS ENTITLED TO RECIPROCAL COMPENSATION THAT INCLUDES CALL TERMINATION RATES AND TANDEM RATES TO TERMINATE LOCAL CALLS IN A CLEC NETWORK. DO YOU AGREE?

A. No. In fact, no such entitlement exists in state or federal law.

Q. PLEASE EXPLAIN.

A. First the matter of <u>when</u> tandem rates apply is not clear. The WUTC has awarded tandem rates in certain contracts in the past. However each case should be determined on its own merits, and tandem rates should not be granted without specifically reviewing a particular CLEC's serving area, customer base, and business plans. There are several issues relating to the appropriateness of the tandem rate that, to my knowledge, the Commission has not

previously considered and that may have to be evaluated. For example, if a CLEC chooses to provide service only to ISPs and not to other Washington customer (and Qwest has seen such arrangements in some states), will the Commission rule that the CLEC is *serving* a geographic area similar to that which Qwest serves? Will the Commission allow tandem rates if only 30% of the Qwest end offices are covered by a CLEC switch, or will the Commission require 60% coverage, or perhaps some other percentage? If a CLEC limits its customers to only business customers without serving residential customers, will the Commission rule that the CLEC is covering the same territory as Qwest? Not all of these important questions can be anticipated and answered in the abstract without the benefit of fact-specific situations that are presented to the Commission. Thus, while Qwest does not dispute that in certain circumstances it may be proper to allow tandem rates, these decisions necessarily rest upon fact-intensive inquiries that must be conducted on a case-by-case basis.

Q. **IF THE COMMISSION DETERMINES THAT A CLEC SHOULD BE PERMITTED TO CHARGE TANDEM RATES IN CERTAIN CIRCUMSTANCES, SHOULD THOSE RATES APPLY TO ALL OF THE QWEST TRAFFIC THAT THE CLEC TERMINATES?**

A. No. Reciprocal compensation should not be based on tandem rates if there is a direct truck between the Qwest end office and the CLEC switch. Qwest provides direct trunks to improve the efficiency of the network. In many cases, Qwest provides these trunks because high traffic volumes between a Qwest switch and a CLEC switch warrant a dedicated trunk group.

Q. WHY DOES QWEST BELIEVE IT SHOULD NOT BE REQUIRED TO PAY TANDEM SWITCHING RATES WHEN A CLEC HAS DIRECT TRUNKS TO A QWEST END OFFICE?

A. Qwest believes it is inappropriate to pay tandem switching rates when a CLEC has a direct LIS trunk group to a Qwest end office. When a CLEC has a direct trunk group to a Qwest end office, Qwest charges the CLEC only the end office element, not the tandem switching rate. For the rate structure to be truly symmetrical, the CLEC should also be required to charge only the end office rate element to Qwest and should not be permitted to impose tandem rates for this traffic. A CLEC should be permitted to impose tandem rates for connections between a Qwest tandem and the CLEC's switch if this Commission determines that the CLEC's switch should be treated as a tandem. But, only end office rates should apply for traffic that is on LIS trunks that are directly connected to a Qwest end office. Qwest only charges end office rates for this type of traffic, and, to ensure symmetry and fairness, CLECs should only charge end office rates for this traffic. Assuming, for discussion purposes, that 50% of the traffic exchanged between a CLEC and Qwest was exchanged at the Qwest tandem, and 50% of the traffic was exchanged between the companies using direct trunking to the end office, Qwest would bill the CLEC end office rates only for 50% of the traffic exchanged and end office rates plus tandem switching for the 50% calls that were switched by the tandem. The CLEC should only receive the additional tandem rates for traffic exchanged at the Qwest tandem and should receive end office rates for traffic exchanged at the end office level. To do otherwise would mean that even when the minutes of traffic exchanged were equal in amount (in balance) the CLEC would always be entitled to more compensation for an equal amount of traffic.

Q. DO YOU AGREE WITH DR. BLACKMON'S POSITION ON THIS ISSUE?

A. Yes. Dr. Blackmon, correctly observes that direct trunking for large volumes of traffic promotes efficient and economical use of the network. I agree with him that in those instances where direct trunking exists, only the end office rate is appropriate, not the tandem rate.

Q. WHAT DO THE FCC RULES SAY WITH RESPECT TO RECIPROCAL RATES?

A. The FCC rule set forth at 47 C.F.R. §51.711(a) establishes the general principle that "[r]ates for the transport and termination of local telecommunications traffic shall be symmetrical . . . ." Under 51.711(b), a CLEC can be excepted from this general rule and permitted to charge rates higher than those of the ILEC if the CLEC demonstrates higher costs through a cost study based upon a "forward-looking economic cost based pricing methodology." In the absence of a cost study showing that the CLEC's costs are higher than the ILEC's, symmetrical rates must apply. If CLECs are permitted to charge tandem rates in circumstances where Qwest only charges the end office rate, the effect will be to improperly allow CLECs to charge asymmetrical rates without a showing that their costs are different from Qwest's. This result would violate the FCC rule and the general requirement of rate symmetry.

IV. CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. My testimony describes why this Commission should rule that local companies are not be required to pay reciprocal compensation to other local companies for Internet-bound traffic. The FCC has made it clear that Internet traffic is interstate in nature. The recent growth in long distance voice calls over the Internet only confirms this. Requiring the payment of reciprocal compensation for interstate, Internet-bound traffic is contrary to sound economics and public policy. For the reasons that Dr. Taylor and I have described, the Commission should not require reciprocal compensation for Internet traffic. If the Commission eventually determines that tandem rates may apply to traffic handled by certain CLECs, the Commission should still adopt the position that Dr. Blackmon and I have described relating to the CLECs' ability to impose tandem rates only on traffic exchanged at the tandem.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.