

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application of)	Docket No. UT-100820
)	
QWEST COMMUNICATIONS)	
INTERNATIONAL, INC. AND)	
CENTURYTEL, INC.)	
)	
For Approval of Indirect Transfer of)	
Control of Qwest Corporation, Qwest)	
Communications Company LLC, and)	
Qwest LD Corp.)	
)	
.....)	

EXHIBIT BJJ-12

TO THE

RESPONSIVE TESTIMONY

OF

BONNIE JOHNSON

ON BEHALF OF INTEGRA TELECOM

September 27, 2010

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, MN 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St Paul, MN 55101-2147

IN THE MATTER OF QWEST
CORPORATION'S CONVERSION OF
UNES TO NON-UNES

Docket No. P421/CI-07-370

IN THE MATTER OF QWEST
CORPORATION'S ARRANGEMENTS
FOR COMMINGLED ELEMENTS

Docket No. P421/CI-07-371

REPLY TESTIMONY OF EDWARD FAGERLUND
ON BEHALF
OF THE MINNESOTA DEPARTMENT OF COMMERCE

SEPTEMBER 25, 2009

1 design step is unnecessary because the facilities are not changed.²⁴ Again the culprit is
2 the Qwest OSS. Qwest is not really re-designing the circuit, but the other parts of the
3 OSS can be updated only if the otherwise unnecessary design step is completed. The
4 Qwest system of OSS is unable to convert from a 251 UNE to a non-251-element with
5 just a straightforward change.

6
7 **Q. Did Qwest consult with the CLECs in setting up its conversion process?**

8 A. Integra describes the process that Qwest followed in setting up its processes for
9 converting 251 UNEs to non-251 elements.²⁵ This process did not involve collaboration
10 with the CLECs. When CLECs expressed concern about the process and asked that this
11 issue be addressed in the Change Management Process (CMP), Qwest apparently
12 refused.²⁶

13
14 **Q. Should the Commission require the parties to work on this issue in the CMP?**

15 A. There may be a recommendation to have these issues addressed now in the CMP.
16 However, after attempting to negotiate directly with Qwest, then filing for arbitration,
17 and now participating in a contested case, Integra deserves to have the Commission
18 address the issues directly rather than bounce the decision back to the CMP. After the
19 Commission makes decisions in this case, it may be appropriate for Qwest and the
20 CLECs to discuss in the CMP the processes that are needed to implement the decisions.

²⁴ Denney Direct, p. 24; ARB-3, Starkey Surrebuttal, p. 105.

²⁵ Johnson Direct 21-29; ARB-3, Starkey Surrebuttal, p. 111.

²⁶ Denney Direct, p. 15.

1 Furthermore, it appears that Qwest has not always used the CMP as the forum where the
2 parties arrive at decisions as equals.²⁷

3
4 **Q. How did Qwest make its conversion processes known to the CLECs?**

5 A. Qwest took the unusual approach of refusing to make certain information regarding its
6 intentions regarding the TRRO available to a CLEC unless the CLEC signed a specific
7 TRO/TRRO amendment.²⁸ Qwest posted the process on its PCAT website, but had the
8 pages password protected. Initially, the CLECs were required to sign the amendment
9 before receiving the password.²⁹

10
11 **B. OPERATIONAL BARRIERS RESULTING FROM QWEST'S CHOSEN PROCESS FOR**
12 **CONVERSION**

13 **Q. What are the operational barriers that Integra claims result from Qwest's chosen**
14 **process for conversion?**

15 A. Integra has raised questions about the Qwest conversion process.³⁰ A CLEC needs
16 seamless conversion in order to continue to provide high quality service to its end users.³¹
17 Integra is concerned about the risk of service disruption.³² The secret development of the
18 Qwest process worried Eschelon in 2006.³³ Integra has criticized the large number of

²⁷ “Eschelon has provided convincing evidence that the CMP process does not always provide CLECs with adequate protection from Qwest making important unilateral changes in the terms and conditions of interconnection.” Arbitrators’ Report, ¶ 22, January 16, 2006, Docket No. P5340, 421/IC-06-768, Eschelon-Qwest Arbitration.

²⁸ Johnson Direct, pp. 24-25.

²⁹ Johnson Direct, Exhibit BJJ-4, p. 9 (9/12/05 Qwest Non-CMP TRRO PCAT Notice).; ARB-2, Starkey Rebuttal, p. 81.

³⁰ Denney Direct, pp. 16-19; ARB-1, Starkey Direct, pp. 132-148.

³¹ Denney Direct, p.17; ARB-1, Starkey Direct, pp. 142-143, 147-8. The FCC stated that conversions “should be a seamless process that does not affect the customer’s perception of service quality.” (TRO, ¶ 586)

³² Denney Direct, p. 16; ARB-1 Starkey Direct, pp. 139-142.

³³ ARB-1: Starkey Direct, p. 133-6.

1 and (3) deal with any similar issues in the future. For example, if the Commission adopts
2 option four above that requires Qwest to provide a commingled EEL without treating it as
3 two separate circuits, Qwest and the CLECs may subsequently sit down to discuss
4 business issues concerning implementation of the decision and, later, of alternative ways
5 to proceed in the future.⁸⁰

6
7 **Q. What is your recommendation concerning Qwest unilaterally establishing processes**
8 **dealing with 251 UNEs, commingled elements, or conversion processes?**

9 A. The Department recommends that the Commission put Qwest on notice that it expects
10 Qwest to work cooperatively when establishing or changing any of its processes that
11 affect the CLECs. The Commission should consider advising Qwest that if there is
12 another incident of this type where Qwest takes unilateral action (without collaborating
13 with the CLECs) that results in operational barriers for CLECs, then the Commission will
14 require future Qwest processes and changes related to 251 UNEs, commingled elements,
15 or conversion processes that affect Minnesota CLECs be submitted to the Commission
16 for prior approval.

17
18 *F. DEPARTMENT RECOMMENDATION*

19 **Q. What is your recommendation concerning the process for handling the commingled**
20 **EEL?**

21 A. I recommend that Minnesota CLECs be allowed to convert UNE EELs to commingled
22 EELs, treating the commingled EEL as a single circuit, with a single ID and a single bill.

⁸⁰ For example, the Integra alternative proposal and the modified Qwest proposal for repair may provide a basis for discussion of the repair issue in the future.

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**In the Matter of Qwest Corporation's
Conversion of UNEs to Non-UNEs**

OAH Docket No. 3-2500-19047-2

MPUC Nos. P421/C-07-370; P421/C-07-371

**In the Matter of Qwest Corporation's
Arrangements for Commingled Elements**

**DIRECT TESTIMONY
OF
RACHEL TORRENCE
ON BEHALF
OF
QWEST CORPORATION**

AUGUST 7, 2009

1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH**
3 **QWEST CORPORATION.**

4 A. My name is Rachel Torrence. My business address is 700 W. Mineral Avenue, Littleton,
5 Colorado. I am employed as a Director within the Network Policy Group of Qwest
6 Corporation.

7 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE, TECHNICAL TRAINING,**
8 **AND PRESENT RESPONSIBILITIES.**

9 A. I have been employed in the telecommunications industry for 36 years. I began my
10 career in 1973 and have worked my entire career for Qwest and its predecessors, The
11 Mountain States Telephone and Telegraph Company (“Mountain Bell”), and US WEST
12 Communications, Inc. For the major part of my career, I was employed in Network
13 operations groups for these companies; within Qwest, that organization is known as the
14 Local Network Organization. As an employee of the Local Network Organization, I held
15 engineering positions in the Long Range Planning, Capacity Provisioning and Tactical
16 Planning organizations and have had responsibility for projects that focused on ensuring
17 network efficiency and maintaining adequate levels of network capacity. My years in the
18 Local Network Organization have provided me with an extensive telecommunications
19 background and much in-depth experience with virtually all aspects of the public
20 switched telephone network (“PSTN”).
21

1 **Q. HAS QWEST UNILATERALLY DETERMINED ALL ASPECTS OF THE**
2 **PROVISIONING PROCESSES USED WHEN CONVERTING FROM A UNE TO**
3 **A NON-UNE OR WHEN CONVERTING TO A COMMINGLED EEL?**

4 A. No. Qwest's provisioning processes are based in large part on industry standards and
5 practices. These standards address everything from standard circuit definitions to
6 architecture configurations. Such standardization is crucial for ensuring reliability and
7 interoperability in an ever evolving multi-carrier environment. This standardization
8 includes basic parameters such as a standard definition for a circuit type (*i.e.*, DS0, DS1
9 or DS3). Regardless what network a given CLEC may interconnect with, it is assured
10 that DS1, for example, will be a 1.544 Mbps digital signal anywhere in North America.
11 Qwest also relies on standard naming conventions, such as circuit IDs. These circuit IDs
12 denote the type of service and associated characteristics and have been implemented
13 throughout the North American telecommunications network by the major carriers.
14 Again, any carrier can read a circuit ID from these networks and know what type of
15 circuit it is. In short, Qwest complies with industry standards and practices when it
16 provisions facilities, whether it is for itself, or for CLEC customers.

17
18 **Q. ESCHELON IS PROPOSING THAT AFTER A CONVERSION, A NON-UNE**
19 **CIRCUIT RETAIN THE UNE CIRCUIT ID. WOULD THE ASSIGNMENT OF A**
20 **UNE CIRCUIT ID ON A NON-UNE CIRCUIT VIOLATE CURRENT INDUSTRY**
21 **STANDARDS?**

22 A. Yes. A requirement for Qwest to retain a UNE circuit ID on a non-UNE circuit
23 following a conversion, mis-identifies the circuit, and provides erroneous information to

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**In the Matter of Qwest Corporation's
Arrangement for Commingled Elements**

MPUC Docket No. P-421/C-07-370

**In the Matter of Qwest Corporation's
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**REBUTTAL TESTIMONY
OF
RACHEL TORRENCE
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1
2 Given that Integra's systems perform functions similar to those of Qwest's systems, the
3 claim that changes to Qwest's system are insignificant (as are the costs) calls into
4 question the credibility of Mr. Denney's argument. Furthermore, it supports Qwest's
5 contention that Integra is simply seeking to shift the costs of doing business in a
6 competitive environment to Qwest. We cannot ignore, as Integra appears to be doing,
7 that the changes needed are a result of recognition by the FCC that Integra is now
8 operating in a competitive environment. Complying with industry practice is simply part
9 of doing business.

10
11 **Q. DOES INTEGRA'S ALTERNATIVE PROPOSAL PROVIDE ANY INSIGHT**
12 **INTO WHETHER CHANGING THE CIRCUIT ID UPON CONVERTING A UNE**
13 **CIRCUIT IS AS BURDENSOME AS MR. DENNEY AND INTEGRA CLAIM?**

14 A. Yes. At page 24 of his direct testimony, Mr. Denney presents an alternative proposal for
15 commingled EELs that Integra advocates in the event the Commission rejects Integra's
16 request for, among other requirements, use of a single circuit ID for commingled EELs.
17 Under the proposal, each circuit of a commingled EEL would have its own, unique circuit
18 ID number. Thus, when Integra converts from using a UNE EEL to a commingled EEL,
19 the circuit ID number of one of the components of the UNE EEL would change to reflect
20 the fact that the component is now being provided as a non-UNE service. The fact that
21 Integra is proposing this, even as an alternative proposal, directly contradicts
22 Mr. Denney's claim that changing circuit IDs upon converting from a UNE would be
23 unduly burdensome for Integra. As its alternative proposal demonstrates, Integra has
24 concluded that it can, in fact, function with separate circuit IDs for the components of a

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SURREBUTTAL TESTIMONY

OF

RACHEL TORRENCE

ON BEHALF

OF

QWEST CORPORATION

OCTOBER 16, 2009

1 current use and application of circuit IDs is consistent with long-standing industry
2 practice. Indeed, as the Telcordia testimony confirms, most carriers use the same
3 product-specific circuit ID formats as Qwest, with very similar, if not identical, OSS. It
4 is revealing that Telcordia reports it is not aware of any other carrier ever before having
5 requested that a UNE circuit ID be transferred to a different, non-UNE service. While
6 operating within industry standards and practice, Qwest, like other Regional Bell
7 Operating Companies ("RBOCs") has maximized the functionality of its systems by
8 incorporating new processes and technologies, including a current standard application of
9 circuit IDs. Thus, Dr. Fagerlund's testimony fails to recognize that the methodology for
10 assigning circuit IDs has not remained static, but instead has evolved with the
11 introduction of new systems, new technologies, and new service offerings. Similarly,
12 systems that utilize circuit IDs have changed to accommodate these changes in
13 telecommunications. The fact that Integra apparently cannot accommodate circuit IDs
14 that comply with industry standards says more about its systems than Qwest's.

15 **Q. ARE THE CLAIMS THAT QWEST'S SYSTEMS ARE ANTIQUATED OR**
16 **INEFFICIENT CONTRADICTED BY FINDINGS OF THE FCC?**

17 **A.** Yes. When Qwest petitioned for relief under Section 271 of the 1996 Act, its OSS were
18 scrutinized extensively by state commissions and the FCC. The FCC specifically found
19 that Qwest's OSS are capable of performing the functions needed to accommodate the

1 A. At page 14, Dr. Fagerlund also takes issue with Qwest's "choice" to convert an UNE
2 EEL into a commingled EEL by treating the non-UNE circuit as a similar Qwest service.
3 He is mistaken. After a designation of non-impairment, a non-UNE circuit is not treated
4 as a similar service; Qwest treats it as the non-UNE circuit it *actually is* with its specific
5 service type. There is no choice to be made. Dr. Fagerlund also claims that Qwest is
6 "choosing" to treat the UNE and non-UNE "elements" of a commingled EEL as separate
7 circuits. Again, he is mistaken. They *are* separate circuits with differing service types
8 and treatment. Qwest must necessarily treat them as such.

9 I also strongly disagree with Dr. Fagerlund's assertion that Qwest "chose" to use its OSS
10 systems in an attempt to erect operational barriers. The reality is that Integra, which is
11 operating in a competitive environment, is seeking to require Qwest to make non-
12 standard systems changes and to use a circuit ID protocol that other carriers do not use
13 and that does not comply with industry standards. There is no operational barrier in having
14 systems and protocols that comply with industry standards; if anything, the barriers to
15 true competition are being erected by Integra through its attempt to force Qwest to make
16 costly systems changes in lieu of Integra bringing its systems and practices up to industry
17 standards.

18 **Q. AT PAGE 15, DR. FAGERLUND MAKES ASSERTIONS REGARDING THE**
19 **INABILITY OF QWEST'S OSS TO RELATE THE TWO CIRCUITS OF A**
20 **COMMINGLED EEL. PLEASE RESPOND.**

21 A. Addressing Integra's alternative demand that Qwest relate the two circuits of a
22 commingled EEL on bills and customer service records, Dr Fagerlund testifies that "[t]he

1 operational barriers, and Dr. Fagerlund's endorsement of that testimony also does not
2 establish that there are, in fact, any operational barriers.

3 **Q. HOW DOES QWEST RESPOND TO DR. FAGERLUND'S OPPOSITION TO**
4 **QWEST'S USE OF INDUSTRY STANDARDS?**

5 A. At page 21 of his testimony, Dr. Fagerlund testifies that the use of industry standards is
6 not an appropriate defense if it causes operational barriers for a CLEC. First, I must
7 reiterate that no such operational barriers have been proven to exist. Second, the entire
8 telecommunications industry relies on ubiquitous standards and practices to ensure its
9 efficient and robust operations. In fact, at page 18 of Mr. Denney's direct testimony,
10 even Integra admits to using the very standards to which Dr. Fagerlund is objecting. To
11 advocate that carriers deviate from such standard practices because it would cause a
12 "CLEC upheaval and continuing cost" (page 18) is to jeopardize the continuation of
13 quality service for all. The fact that Integra would be caused such upheaval by
14 continuing to comply with industry standard indicates that Integra is out of step with the
15 industry, not that it is the victim of operational barriers.

16 **Q. HOW DOES QWEST RESPOND TO DR. FAGERLUND CHALLENGING THE**
17 **NEED FOR A REVIEW OF THE CIRCUIT DESIGN WHEN CONVERTING A**
18 **CIRCUIT?**

19 A. At pages 7 and 8, Dr. Fagerlund challenges Qwest's review of the circuit design as
20 unnecessary and erroneously claims that Qwest's OSS is unable to convert from a UNE
21 to a non-UNE without this review having been completed. This is incorrect. This step of

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**In the Matter of Qwest Corporation's
Arrangements for Commingled Elements**

QWEST CORPORATION

DIRECT TESTIMONY OF RENÉE ALBERSHEIM

AUGUST 7, 2009

**PUBLIC DOCUMENT
TRADE SECRET DATA HAS BEEN EXCISED**

1 **Q. IS IT LOGICAL THAT SYSTEMS SHOULD NOT HAVE TO BE CHANGED IN**
2 **ORDER FOR COMMINGLING TO BE PERMITTED?**

3 A. Certainly. The FCC specifically defines commingling as the combination of different
4 types of products (UNEs and other wholesale tariffed products). The FCC explicitly
5 recognized that it is not necessary for ILECs to change their systems in order to bill on a
6 combined basis for these products. It is also not necessary to change systems to
7 combine the ordering, provisioning, or maintenance and repair of these products. Qwest
8 has robust systems in place for ordering UNEs and for ordering wholesale tariffed
9 products. These systems comply with and are based upon national industry standards
10 and practices that I discuss more thoroughly in the circuit ID section of this testimony.
11 CLECs have access to both sets of systems. Once the CLECs obtain these products, the
12 FCC permits them to combine UNEs and wholesale tariffed services into commingled
13 arrangements. No change is required in Qwest's systems to permit the CLECs to make
14 these combinations.

15 **Q. BUT ISN'T ESCHELON SEEKING SIGNIFICANT SYSTEMS AND PROCESS**
16 **CHANGES FROM QWEST IN ORDER TO EFFECTUATE ITS DEFINITION**
17 **OF COMMINGLING?**

18 A. Yes. I will discuss that in detail in the next section of my testimony.

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QWEST CORPORATION

REBUTTAL TESTIMONY OF RENÉE ALBERSHEIM

SEPTEMBER 25, 2009

**PUBLIC DOCUMENT
TRADE SECRET DATA HAS BEEN EXCISED**

1 **Q. WHAT IS THE RELATIONSHIP BETWEEN THE AVAILABILITY OF**
2 **ALTERNATIVE SOURCES FOR NON-UNE SERVICES AND INTEGRA'S**
3 **DEMANDS RELATING TO UNE CONVERSIONS?**

4 A. There is a direct relationship. Mr. Denney repeatedly invokes so-called "operational
5 barriers" and alleged anti-competitive conduct by Qwest in an attempt to establish a need
6 for Integra's proposals. This argument implicitly assumes that Qwest is the only available
7 source of alternative services and that regulation of those services – in the form of a same
8 circuit ID requirement, for example – is therefore essential for CLECs to have meaningful
9 access to the services. However, a finding of non-impairment, as I describe above,
10 necessarily establishes that Integra has the opportunity to self-provision non-UNE services
11 and can obtain them from providers other than Qwest. Thus, the underlying premise of
12 Integra's demands – the premise that Qwest is the only game in town – is simply wrong.
13 Moreover, the fact that there are alternative sources other than Qwest and that a wire center
14 has been deemed non-impaired means that Qwest's non-UNE services are not subject to the
15 type of regulation that Integra seeks to impose.

16 **Q. HAS QWEST PREVIOUSLY PROVIDED THIS COMMISSION WITH EVIDENCE**
17 **OF THE MULTIPLE ALTERNATIVE SERVICE PROVIDERS AVAILABLE TO**
18 **CLECS?**

19 A. Yes. In a proceeding involving this Commission's attempt to set prices for the elements
20 and services that Qwest provides under Section 271 – PUC Docket No. P-421/C-05-

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QWEST CORPORATION

SURREBUTTAL TESTIMONY OF RENÉE ALBERSHEIM

OCTOBER 16, 2009

1 rules and regulatory authorities governing Section 251 elements, and there are rules and
2 regulatory authority applicable to products sold through interstate tariffs.

3 It would also not be wise for Qwest or any other carrier to ignore the standards under
4 which the telecommunications industry operates. These standards exist to allow carriers to
5 work with each other, and to ensure some consistency within systems and in carrier-to-
6 carrier transactions.

7 Dr. Fagerlund would suggest that Qwest could "choose" to ignore these realities, but as
8 Qwest sees it, choosing to ignore regulations and choosing to ignore industry standards is
9 not an option.

10 **Q. DR. FAGERLUND STATES SEVERAL TIMES THAT THE CORE OF QWEST'S**
11 **ISSUES WITH IMPLEMENTING INTEGRA'S DEMANDS IS QWEST'S OSS.⁴¹**
12 **PLEASE RESPOND.**

13 A. First, I must point out that Dr. Fagerlund cites testimony from another Department of
14 Commerce witness to support his critical comments about Qwest's OSS. Importantly, the
15 fact that some systems have been in use for multiple years does not mean that they are
16 antiquated. Qwest augments and updates its systems on a regular basis to incorporate the
17 latest technology and to allow Qwest to provision the latest products and services to all of
18 its customers. Dr. Fagerlund's testimony does not contain any analysis of these regular

⁴¹ See for example Fagerlund Reply at pages 6 and 15.

1 **Q. DR. FAGERLUND CONSIDERS THE COMPARISON OF QWEST'S UNE-P TO**
2 **QPP AS A POWERFUL EVIDENCE THAT HIS OPTION FOUR IS PRACTICAL.⁵¹**
3 **IS THE QPP EXAMPLE A VALID COMPARATIVE?**

4 A. No. As I noted in my testimony above, the conversion of QPP did not involve changing a
5 service from one circuit to two circuits as happens when a UNE EEL is converted to a
6 commingled EEL.

7 **Q. DR. FAGERLUND DISMISSES QWEST'S USE OF STANDARD INDUSTRY**
8 **PRACTICES AS EVIDENCE THAT ILECS ARE ABLE TO CREATE**
9 **OPERATIONAL BARRIERS. HOW DO YOU RESPOND?**

10 A. If industry standards were used by ILECs to create operational barriers for CLECs, the
11 practices would be forced to change by the industry. There are a number of regulatory
12 remedies in place to prevent ILECs from creating operational barriers and that provide
13 incentive to ILECs to ensure that operational barriers are indeed not created. Dr. Fagerlund
14 has broadly condemned ILECs without support for his condemnation. Industry standards
15 are not created by ILECs to benefit only ILECs. They are created and supported by a broad
16 spectrum of industry participants to benefit the industry as a whole.

17 For example, the Ordering and Billing Forum ("OBF") of the Alliance for
18 Telecommunications Industry Solutions ("ATIS") "provides a forum for representatives

⁵¹ Fagerlund Reply at page 25.