

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

IN THE MATTER OF THE PETITION FOR
ARBITRATION OF AT&T
COMMUNICATIONS OF THE PACIFIC
NORTHWEST AND TCG SEATTLE WITH
QWEST CORPORATION PURSUANT TO
47 U.S.C. § 252(b)

DOCKET NO. UT-033035

DIRECT TESTIMONY

OF

PHILIP LINSE

ON BEHALF OF

QWEST CORPORATION

SEPTEMBER 25, 2003

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1

I. INTRODUCTION

2 **Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.**

3 A. My name is Philip Linse. I am employed by Qwest Corporation ("Qwest") as a
4 Director, Technical Regulatory in the Local Network Organization. My business
5 address is 700 W. Mineral, Littleton, Colorado, 80120.

6 **Q. PLEASE REVIEW YOUR EDUCATION AND WORK EXPERIENCE.**

7 A. I received a Bachelors degree from the University of Northern Iowa in 1994. I began
8 my career in the telephone communications industry in 1995 when I joined the
9 engineering department of CDI Telecommunications in Missoula, Montana. In 1998, I
10 accepted a position with Pacific Bell as a Technology planner with responsibility of
11 analyzing network capacity. In 2000, I accepted a position with U S WEST as a
12 Manager, Tactical Planning. In 2001, I was promoted to a staff position in Technical
13 Regulatory, Interconnection Planning for Qwest. In this position, I developed network
14 strategies for interconnection of unbundled Switching, Signaling System 7 and other
15 switching-related products. In addition, I provided network evaluation of new
16 technologies and represented the network organization as a subject matter expert. In
17 2003, I was promoted to my current position as Director of Technical Regulatory in the
18 Network organization.

19

II. PURPOSE AND BACKGROUND

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

21 A. The purpose of my testimony is to address the issue of abandonment (disputed issue
22 22) that has been raised in the process of the interconnection agreement negotiations
23 between Qwest and AT&T. I explain why the Commission should approve Qwest's

1 proposed contract language for this issue as well as the basis of Qwest's opposition to
2 language that AT&T proposes for the parties' interconnection agreement.

3 **III. ABANDONMENT (Disputed Issue 22)**

4 **Q. WHEN DOES ABANDONMENT OCCUR?**

5 A. Abandonment¹ occurs when a CLEC that owns collocated equipment walks away from
6 its collocation site and collocated equipment, without decommissioning the site or
7 removing the equipment. In an abandonment situation, the equipment is left on Qwest
8 premises, and Qwest is required to arrange for storage or removal of the equipment at
9 its own expense. As discussed more fully below, CLECs do not abandon valuable
10 equipment. Rather, equipment is abandoned when the CLEC itself determines that it is
11 cheaper to walk away from the equipment than arrange for its removal.

12 **Q. WHAT IS QWEST'S PROPOSED LANGUAGE?**

13 A. Qwest has proposed the following language to address the event when a CLEC decides
14 to abandon its equipment on Qwest's premises:

15 8.2.1.31 If Qwest finds, in the course of business, evidence to substantiate that
16 any equipment or property of CLEC has been abandoned or left unclaimed in or
17 at any Premises, Qwest shall notify CLEC in writing of the existence of such
18 equipment or property and CLEC shall have thirty (30) Days from the date of
19 such notice to remove such equipment or property from Premises. If, prior to
20 the termination of the thirty (30) Day period, CLEC disputes that the equipment
21 or property of CLEC has been abandoned or left unclaimed at the Premises,
22 CLEC shall deliver to Qwest written notice of such dispute (the "Resolution
23 Request") and commence Dispute resolution proceedings pursuant to Section
24 5.18 of this Agreement. If no Resolution Request has been delivered, then thirty
25 (30) Days after the date of the notice all equipment or property of CLEC not
26 removed from the Premises shall conclusively be deemed and construed to have

¹ According to Black's Law Dictionary, abandoned property is property over which the owner has willingly relinquished ownership.

1 been transferred, deeded, and assigned by CLEC to Qwest and may be
2 appropriated, sold, stored, destroyed and/or otherwise disposed of by Qwest
3 without further notice to CLEC and without obligation to account therefor, and
4 CLEC shall reimburse Qwest for all reasonable expenses incurred in connection
5 with the storage or other disposition of such equipment or property. If CLEC
6 delivers a Resolution Request but fails to commence dispute resolution
7 proceedings pursuant to Section 5.18 of this Agreement or to otherwise resolve
8 the dispute with Qwest, as evidenced by a writing executed by Qwest, within
9 thirty (30) Days of the delivery of such Resolution Request, then thirty Days after
10 the date of the Resolution Request, all equipment or property of CLEC not
11 removed from the Qwest Premises shall conclusively be deemed and construed
12 to have been transferred, deeded, and assigned by CLEC to Qwest and may be
13 appropriated, sold, stored, destroyed and/or otherwise disposed of by Qwest
14 without further notice to CLEC and without obligation to account therefor, and
15 CLEC shall reimburse Qwest for all reasonable expenses incurred in connection
16 with the storage or other disposition of such equipment or property. CLEC
17 hereby releases and agrees to defend, indemnify, and hold harmless Qwest from
18 and against any and all costs, expenses, claims, judgments, damages, liability or
19 obligation arising out of or in connection with Qwest's exercise of any or all of its
20 rights under this Section 8.2.1.31. Notwithstanding the provisions of this section,
21 where CLEC has submitted a Decommissioning Application, the provisions of
22 Section 8.2.1.22 of this Agreement, shall govern the equipment or property of
23 CLEC and not this Section 8.2.1.31 unless CLEC fails to remove its equipment
24 or property in accordance with the terms of Section 8.2.1.22 of this Agreement.

25 **Q. WHAT IS AT&T'S PROPOSED LANGUAGE?**

26 **A. AT&T proposes the following language relating to abandonment of equipment at**
27 **collocation sites:**

28 8.2.1.31 Qwest may determine in good faith, using nondiscriminatory objective
29 criteria, that equipment or property of CLEC has been abandoned or left
30 unclaimed in or at a Collocation Premises. One of the objective criteria that must
31 be present before such determination may be made is that CLEC has failed to
32 pay undisputed monthly recurring charges associated with such Collocation
33 Premises for at least three consecutive months immediately preceding such
34 determination. Once Qwest makes such a determination, it may provide CLEC
35 notice of abandonment which shall at a minimum include (i) the identification of
36 the affected Collocation Premises, (ii) the bases for Qwest's determination of
37 abandonment, (iii) a point of contact at Qwest regarding the claimed

1 abandonment and (iv) notice that CLEC has no less than thirty (30) Days to
2 remove its equipment or property.

3 8.2.1.31.1 If CLEC responds in writing within thirty (30) Days that it disputes
4 Qwest's determination of abandonment, the parties may resolve the dispute
5 through negotiation or Dispute Resolution pursuant to Section 5.18, initiated no
6 later than the end of such thirty (30) Day notice period.

7 8.2.1.31.2 If CLEC responds to such notice agreeing with such abandonment or
8 fails to respond to such notice, CLEC's equipment shall be deemed abandoned
9 and CLEC shall have until the end of such thirty (30) Day notice period to
10 remove its equipment or property from the Collocation Premises. If CLEC fails
11 to remove its equipment or property by the end of such thirty (30) Day period,
12 Qwest may appropriate, sell, store, and/or otherwise dispose of such equipment;
13 provided, however, that if CLEC has commenced removal of its equipment or
14 property prior to the end of such thirty (30) Day period, Qwest shall allow
15 CLEC up to thirty (30) additional days to complete the removal. Once the time
16 period for removal of CLEC's equipment or property has elapsed, Qwest shall
17 cease charging CLEC any recurring charges associated with the Collocation site
18 where such abandoned equipment or property was located. CLEC shall
19 reimburse Qwest for all reasonable expenses incurred in connection with the
20 storage or disposition of such equipment or property, provided that Qwest
21 makes reasonable efforts to mitigate such expenses. If Qwest receives value for
22 such abandoned equipment or property, Qwest shall use such value to offset
23 expenses it incurs in appropriating, selling, storing or otherwise disposing of such
24 equipment or property. Qwest shall not be obligated to provide CLEC with an
25 accounting of expenses Qwest seeks to recover from CLEC, unless CLEC
26 requests in writing such an accounting and agrees to bear the reasonable
27 expenses incurred by Qwest in preparing the same. Notwithstanding the
28 provisions of this section, where CLEC has submitted a Decommissioning
29 Application, the terms for Collocation Decommissioning contained in this
30 Agreement shall apply.²

31 **Q. WHAT IS THE PURPOSE OF QWEST'S LANGUAGE?**

² My testimony addresses language AT&T has proposed since the parties submitted the Disputed Issues List to the Commission. AT&T's language is not red-lined because it differs substantially from AT&T's originally proposed language.

1 A. The purpose of Section 8.2.1.31 of the interconnection agreement is to establish a
2 predictable and enforceable process for addressing CLEC equipment abandoned on
3 Qwest property at collocation sites. Qwest's abandonment language enables Qwest to
4 make abandoned collocation space available to other CLECs and Qwest efficiently and
5 economically while affording CLECs full opportunity to challenge any abandonment
6 determination. While AT&T has claimed that Qwest is focusing on the worst case
7 scenario of a CLEC walking away from its collocation, going out of business and not
8 being responsive to notices, those scenarios have occurred. Qwest's experience has
9 demonstrated that it is exceedingly time consuming and unnecessarily expensive to
10 address abandoned equipment without decisive and conclusive language to address the
11 disposition of abandoned equipment.

12 In AT&T's case, it is extremely unlikely that this issue should ever become a reality, as
13 AT&T has acknowledged in other proceedings that it has never abandoned equipment
14 (and does not intend to abandon equipment) at a Qwest collocation site. Qwest,
15 however, provides collocation to many carriers. Other CLECs that opt into this
16 contract may not be as financially solvent as AT&T. It is for this reason that it is
17 important that Qwest have a clear and decisive process for dealing with abandonment.

18 **Q. WHY IS QWEST'S PROPOSED LANGUAGE NECESSARY?**

19 A. Under its SGAT and interconnection agreements, Qwest has processes that apply when
20 a CLEC chooses to decommission a collocation site.³ It also has processes CLECs
21 can invoke if they wish to transfer responsibility for the collocation site to another

³ The decommissioning language the parties' have negotiated is set forth in Section 8.2.1.22 of the parties' proposed interconnection agreement.

1 CLEC. The abandonment language the parties dispute relates to those instances in
2 which the CLEC fails to avail itself of either of these processes and literally abandons
3 the collocation site and its equipment. In the recent past, some CLECs that have gone
4 out of business have chosen simply to abandon their equipment on Qwest's premises
5 rather than incur the time and expense of disposing of that equipment. These CLECs
6 have determined, for whatever reason, that they do not want their equipment and will
7 not address its disposal. When, after providing notice to the CLEC, Qwest is unable to
8 locate them, Qwest is left in the position of attempting to dispose of the equipment and
9 incurring the cost of removal and disposal so that its central office space can be
10 reclaimed for itself and other carriers. Qwest's language provides for a predictable and
11 enforceable process for addressing CLEC equipment abandoned on Qwest property at
12 collocation sites.

13 **Q. WHY DOES QWEST WISH TO ADDRESS ABANDONMENT IN THIS INTERCONNECTION**
14 **AGREEMENT?**

15 A. In response to this more recent phenomenon, Qwest is seeking a predictable, straight-
16 forward process to apply to abandoned equipment that minimizes the costs Qwest
17 already unwillingly is forced to incur. After providing a possible abandoning CLEC with
18 notice and the opportunity to challenge a determination of abandonment, Qwest
19 requires the contractual ability to remove abandoned equipment without protracted legal
20 proceedings.

21 **Q. DOES QWEST PROVIDE PROTECTION FOR AT&T AND OTHER CLECS IN ITS PROPOSED**
22 **LANGUAGE?**

23 A. Yes. Qwest's proposed language and process affords abandoning CLECs every
24 opportunity to protect their interests in the event they dispute that they have abandoned

1 the site. Importantly, Qwest's proposed language and process provides 30 days
2 advance notice to abandoning CLECs and balances Qwest's rights as a "landlord" with
3 the need to make abandoned collocation space available to Qwest and other requesting
4 CLECs that need the space to serve customers. Qwest provides an agreed-upon
5 process for CLECs to appropriately decommission collocations including provisions
6 addressing equipment that is subsequently abandoned.⁴ AT&T does not take issue with
7 this language or process or the transfer of responsibility in the case of bankruptcy.⁵
8 Again, Qwest's language applies in those circumstances where the CLEC walks away
9 from its contract, the bills that may be owed to Qwest, or its equipment without taking
10 advantage of the decommissioning processes or the processes for transferring the
11 collocation site. These provisions as well as those regarding abandonment clearly
12 provide the CLEC the ability to protect its interests through the dispute resolution
13 process in the event the CLEC is not, in fact, abandoning its collocation.

14 **Q. DOES AT&T HAVE REASON TO OPPOSE QWEST'S LANGUAGE?**

15 **A.** No. AT&T opposes this language, but its opposition is curious. AT&T itself has
16 admitted in the parties' recent arbitration in Minnesota that it is unaware of any situation
17 where AT&T has abandoned a collocation site in a Qwest office. Furthermore,
18 analogous abandonment language in an amendment to the parties' current
19 interconnection agreement, which AT&T negotiated without dispute in 2001, is less

⁴ Agreement, Sections 8.2.1.22.2.3, 8.2.1.22.2.3.1, and 8.2.1.22.2.3.2.

⁵ Agreement, Section 8.2.9.

1 generous than the language Qwest is currently proposing.⁶ Finally, because Qwest
2 provides advance notice of a possible abandonment, AT&T has every opportunity to
3 protect its interests if Qwest ever were to contend that AT&T abandoned its
4 equipment. Since it is also unlikely that AT&T will be going out of business without
5 informing Qwest during the term of the parties' interconnection agreement, it is far more
6 likely that AT&T would decommission a collocation site than abandon it and its
7 equipment entirely. Thus, as a practical matter, AT&T has little reason to oppose
8 Qwest's proposed contract language because the chances of AT&T abandoning its
9 equipment are slim. In the unlikely event Qwest believed AT&T had abandoned
10 equipment, AT&T, unlike a CLEC that has gone out of business, can be contacted and
11 would receive notice of any potential abandonment process.

12 **Q. WHAT IS QWEST'S STAKE IN THIS DISPUTE?**

13 A. Even though AT&T has little stake in this issue, Qwest's stakes are much higher. Qwest
14 offers collocation to many carriers, and many carriers choose to opt into AT&T's
15 interconnection agreements rather than negotiate their own agreement. Accordingly,
16 Qwest must look past its current dispute with AT&T to determine a policy and position
17 that can be applied to a variety of Washington CLECs. Furthermore, only Qwest
18 incurs costs when a CLEC abandons its equipment. Qwest's proposed language for
19 Section 8.2.1.31 recognizes the reality of abandonment and serves as a proper model
20 to apply for other carriers that may abandon their equipment on Qwest premises.

⁶ Exhibit PL-2 is language from an amendment the parties' existing interconnection agreement that relates principally to decommissioning collocation sites. Section 2.3 of that amendment addresses abandoned equipment in connection with decommissioning.

1 **Q. WHY WOULD A CARRIER ABANDON EQUIPMENT IN ITS COLLOCATION SPACE WHEN**
2 **IT COULD SELL IT ON THE "GRAY" MARKET?**

3 A. In an abandonment situation, the CLEC has determined that the equipment is worth so
4 little that it is more cost effective to simply leave it behind rather than incur the costs
5 associated with its removal or disposal. As discussed herein, in Qwest's experience
6 with abandoned equipment, the equipment has no or virtually no resale value. There is
7 no "market" for the equipment and, in fact, Qwest incurs costs related to its removal.
8 Thus, this is not a situation in which valuable assets are at stake: if the equipment
9 retained any resale value beyond scrap, the CLEC would not abandon it in the first
10 place.

11 Given these market realities, Qwest's proposed contract language provides an
12 appropriate process whereby, after providing notice to the CLEC, Qwest can efficiently
13 dispose of unwanted equipment on Qwest's premises where a CLEC has abandoned its
14 collocation.

15 **Q. CAN YOU PROVIDE EXAMPLES THAT SUPPORT QWEST'S POSITION?**

16 A. Unfortunately, yes. Since December 2001, CLECs have abandoned equipment in over
17 450 sites in Qwest's 14-state region. In one instance, a CLEC walked away from 165
18 collocation sites. Qwest received notice via the discovery of liens against over 25 of
19 Qwest's central offices where the CLEC had been collocated. Upon investigation,
20 Qwest discovered that the CLEC in question had gone out of business. Qwest's
21 attempts to contact this CLEC were unsuccessful. Qwest also visited the last known
22 business address and found a sign on the door that indicated that the CLEC was no
23 longer in business. At this point, Qwest was required to search for the CLEC's
24 creditors to determine if they had right to the equipment the CLEC left at its

1 collocations. Qwest received notice from two manufacturing companies that had rights
2 to the equipment, but both indicated that they did not want the equipment and that the
3 equipment had no salvage value. This process took more than 18 months, and the
4 CLEC had a past due bill in the hundreds of thousands of dollars. In addition, Qwest
5 estimates that costs for removal of the equipment are in the hundreds of thousands of
6 dollars. Many of the liens placed against Qwest central offices, however, are still in
7 dispute. As a result of this laborious and expensive process, Qwest seeks a more
8 streamlined process to address abandoned collocations.

9 In another instance, a CLEC returned 183 sites to Qwest. All sites were returned to
10 Qwest from the bankruptcy trustee relinquishing the remaining CLEC equipment
11 abandoned in the collocation site. The bankruptcy trustee determined that the cost to
12 remove the equipment exceeded the current market value of the equipment and granted
13 clear title to the abandoned equipment to Qwest. Qwest intends to give away or scrap
14 the equipment.

15 In another instance, a CLEC abandoned equipment in 54 collocation sites. All of the
16 sites were returned to Qwest from the bankruptcy trustee relinquishing the remaining
17 CLEC equipment abandoned in the collocation site. The trustee determined that the
18 cost to remove the equipment exceeded the market value of the equipment. Qwest did
19 work with an outside contractor to attempt to remove and sell some of this abandoned
20 CLEC equipment after the trustee granted Qwest clear title to it. The contractor
21 removed equipment from two sites at a removal cost of approximately \$200 per site.
22 The total sale revenues from both sites were \$400, the same as the removal cost.

1 In yet another instance, a CLEC abandoned equipment at 51 collocation sites. The
2 sites were returned to Qwest during the bankruptcy proceedings. The bankruptcy
3 trustee removed a portion of the equipment and left the remainder. Qwest was required
4 to remove and scrap this remaining abandoned equipment.

5 In Washington, Qwest experienced a total of 116 abandoned collocations and has
6 incurred estimated costs of over \$200,000 to date, excluding unpaid non-recurring
7 costs of approximately \$600,000 from one CLEC.

8 **Q. AT&T HAS CLAIMED THAT QWEST SHOULD NOT BE PERMITTED TO RESELL**
9 **ABANDONED CLEC EQUIPMENT AT A PROFIT. HAS QWEST BEEN ABLE TO SELL**
10 **ABANDONED EQUIPMENT FOR A PROFIT?**

11 A. No. As I discussed above, based on its experience, Qwest does not make money from
12 the sale of abandoned equipment and cannot sell the equipment for any type of profit. If
13 the equipment retains any value, that value is offset by the cost Qwest incurs to remove
14 the equipment. As a matter of common sense, if the equipment was valuable, the
15 CLEC would not willingly leave it behind in the first place. Contrary to AT&T's
16 position, Qwest actually *incurs costs* to store or dispose of abandoned equipment.

17 **Q. DOES AT&T'S LANGUAGE CONSIDER THE IMPACTS ON QWEST AND THE**
18 **AVAILABILITY OF COLLOCATION FOR OTHER CARRIERS ASSOCIATED WITH**
19 **ABANDONMENT SITUATIONS?**

20 A. No. AT&T's proposed language is unnecessarily burdensome and time consuming,
21 imposes costs on Qwest, and delays making abandoned collocation space available to
22 all carriers. AT&T's language imposes processes that are inconsistent with an
23 abandonment situation.

1 **Q. IS AT&T'S PROPOSED LANGUAGE AN IMPROVEMENT OVER QWEST'S PROPOSED**
2 **LANGUAGE?**

3 A. No. All of the requirements AT&T seeks to impose are either (1) already
4 encompassed in Qwest's proposed language; (2) unnecessary; (3) unreasonable or (4)
5 confusing so as to ensure that the parties will have disputes. In particular, Qwest
6 opposes AT&T's mandatory requirement that as an "objective criteria" of whether a
7 CLEC has abandoned its equipment, Qwest must wait for 90 consecutive days of
8 nonpayment of "undisputed" collocation payments. Qwest also opposes AT&T's
9 creation of an additional 30-day extension of the notice period if the CLEC has not
10 completed removal of equipment as unnecessary and excessive. In addition, Qwest
11 opposes AT&T's attempt to dictate process through contract language by specifying the
12 content of the abandonment notification. Qwest further opposes AT&T's language that
13 Qwest must make "reasonable efforts" to "mitigate" its damages or expenses as well as
14 its language requiring an "accounting" if the CLEC requests one.

15 **Q. WHY DOES QWEST OPPOSE AT&T'S LANGUAGE REGARDING "OBJECTIVE CRITERIA"**
16 **OF ABANDONMENT?**

17 A. AT&T's language is inflexible and restricts Qwest's ability to quickly and efficiently
18 dispose of abandoned equipment. AT&T's language does so by imposing a mandatory
19 three-month waiting period for nonpayment of "undisputed" collocation fees before
20 Qwest can proceed with notification to a CLEC of abandonment. AT&T's language
21 imposes this mandatory 90-day interval in all instances regardless of other valid
22 indications of abandonment. For example, AT&T's language would require Qwest to
23 wait three months and tie up collocation space, even when Qwest has been notified by a
24 CLEC of its intent to abandon equipment prior to or within the 90-day period.

1 Alternatively, a CLEC may intermittently miss collocation payments and then abruptly
2 go out of business or file for bankruptcy. Qwest would still be required to wait for 90
3 days of "consecutive" non-payment to issue a notice of abandonment to address any
4 abandoned equipment. A paying CLEC could also abruptly go out of business or
5 determine that it wants to terminate its agreement with Qwest, intentionally leaving all or
6 part of its equipment, and Qwest still would be required to wait 90 days before issuing
7 the abandonment notice. In other words, AT&T's language does not account for the
8 specific circumstances of any particular alleged abandonment. Qwest's language
9 provides that Qwest must "find evidence to substantiate" an assertion of abandonment
10 and if a CLEC disputes that evidence, the CLEC may initiate dispute resolution.
11 Qwest's language, therefore, already provides CLECs protection while also allowing
12 flexibility in the identification of abandoned equipment. Resolution of disputes regarding
13 whether a CLEC has or has not abandoned its property is more properly addressed in
14 the dispute resolution where all the specific factors that led to the notice can be
15 considered early in the process.

16 **Q. WHAT OTHER CONCERNS DOES QWEST HAVE WITH AT&T'S "OBJECTIVE CRITERIA"**
17 **LANGUAGE?**

18 **A.**AT&T's language provides that the collocation fees must be "undisputed." It is unclear
19 what would constitute an "undisputed" or "disputed" fee. Under AT&T's language,
20 Qwest could be held up dealing with a non-paying CLEC's site if the CLEC simply
21 declares that it "disputes" the fees.

22 AT&T's language also provides that the 90-days of non-payment is "one of the criteria"
23 that must be present. AT&T's language does not specify whether 90 days of non-
24 payment is a sufficient criteria in itself or whether Qwest must present other "objective

1 criteria." If AT&T intends to require more than 90 days of non-payment, it has not
2 specified what more it would require, again leading to possible disputes between the
3 parties.

4 Similarly, under AT&T's language, even after Qwest has waited 90 days before issuing
5 its notice, the CLEC still may oppose the notice and initiate dispute resolution.

6 Therefore, AT&T's language does not avoid the dispute resolution process, it serves
7 only to impose a 90-day delay of the initiation of possible dispute resolution. Under
8 Qwest's language, in contrast, whether Qwest has properly issued a notice of
9 abandonment and whether the CLEC disputes the notice is addressed at the outset of
10 the process. AT&T's language would permit a foot-dragging CLEC to extend the
11 abandonment process and delay making collocation sites available to Qwest and other
12 carriers.

13 **Q. WHY DOES QWEST OPPOSE AT&T'S TEXT FOR SECTION 8.2.1.31.2 REGARDING**
14 **REMOVAL OF EQUIPMENT DURING THE 30 DAY NOTICE PERIOD?**

15 A. AT&T's language states that if a CLEC has commenced removal of its equipment, but
16 does not complete removal within 30 days, Qwest must grant the CLEC an additional
17 30 days to complete removal of equipment. AT&T's language is objectionable to
18 Qwest for several reasons. First, it can be expected that a CLEC or the bankruptcy
19 trustee may remove some equipment from the collocation site (more valuable or easily
20 movable electronic equipment such as channel unit cards and channel banks) and leave
21 the valueless and difficult to remove equipment (such as relay racks, cable racks, and
22 other iron work). Under AT&T's language, if a CLEC removes some equipment and
23 leaves the remainder, Qwest must grant the CLEC (which may have no intent of ever
24 removing the remaining equipment) an additional 30 days to remove the remaining

1 equipment. AT&T's language does not address what Qwest may do at the end of this
2 second 30 day period if the CLEC's equipment remains in the collocation space. For
3 example, it is unclear whether Qwest then is given clear title to the remaining equipment
4 so that it may remove and dispose of the remaining equipment, whether the CLEC
5 receives a third 30 day extension, or even whether Qwest must start abandonment
6 processes all over again.⁷ Qwest's language provides certainty, however, by explicitly
7 stating that Qwest obtains full title and rights to the equipment if the CLEC has not
8 removed it after 30 days. Thirty days is more than sufficient time for a CLEC to
9 arrange removal of equipment if that equipment retains any value to the CLEC.

10 **Q. AT&T ALSO PROPOSES THAT THE NOTICE OF ABANDONMENT SHALL CONTAIN**
11 **SPECIFIC INFORMATION. IS THE INTERCONNECTION AGREEMENT THE MOST**
12 **APPROPRIATE PLACE TO IDENTIFY WHAT SHOULD BE CONTAINED IN THE**
13 **NOTIFICATION OF ABANDONMENT?**

14 **A.** No. AT&T is attempting to dictate process issues in interconnection agreement
15 language. The processes for these types of notification are more appropriately
16 addressed through Change Management Process ("CMP") and the Product Catalog
17 ("PCAT") or other publicly available documentation that applies to and can be
18 commented upon by all carriers interconnecting with Qwest. The interconnection
19 agreement should be reserved for contractual obligations. Abandonment language
20 should be available in the interconnection agreement without the burden of additional
21 language regarding granular details, such as what is contained in the notice of
22 abandonment. The content of the notice could be better addressed in an appropriate

⁷ AT&T is also unclear as to when recurring charges must cease—at the expiration of the 30 day notice period or AT&T's additional 30 day extension.

1 forum and then made publicly available in the PCAT so that it is consistent for and
2 available to all carriers. The forum that Qwest provides to address processes such as
3 the content of a notification of abandonment is established through the CMP. The CMP
4 provides the facilitation of discussion between CLECs and Qwest about process details
5 through regularly scheduled CMP meetings. The CMP is the most appropriate forum to
6 address what should be included in a notification of abandonment.

7 **Q. WHY DOES QWEST OPPOSE AT&T'S LANGUAGE REGARDING MITIGATION OF**
8 **DAMAGES?**

9 A. When CLECs abandon equipment on Qwest premises, they are attempting to avoid
10 incurring the costs of removal and are not interested in what costs Qwest incurs as a
11 result. CLECs that wish to avoid any such abandonment expenses from Qwest have
12 alternative processes such as decommissioning the site or transferring it to another
13 CLEC. Based on the intent of abandonment, the concept of "mitigation of damages" is
14 senseless. Furthermore, AT&T's demand for Qwest to mitigate damages would create
15 disputes as to what constitutes "reasonable efforts" on Qwest's part, and what
16 constitutes "mitigation." To the extent that a CLEC believes that Qwest has improperly
17 inflated its expenses, the dispute should be addressed through the dispute resolution
18 process.

19 I would also note that AT&T's language on mitigation is inconsistent with the other
20 obligations AT&T seeks to impose on Qwest. Specifically, AT&T hinders Qwest's
21 "mitigation of damages" by proposing its mandatory three-month minimum interval for
22 initiating a notice of abandonment and by imposing unnecessary extensions of the notice
23 of abandonment. By delaying removal of equipment from abandoned sites, Qwest is
24 delayed in turning the site over to itself or leasing it to another CLEC.

1 **Q. IS AT&T'S PROPOSED LANGUAGE MORE CUMBERSOME THAN THE LANGUAGE AT&T**
2 **ITSELF PROPOSES TO USE FOR INCUMBENT LECS THAT COLLOCATE IN AT&T**
3 **CENTRAL OFFICES?**

4 A. Yes. AT&T's proposed contract language for collocation on its premises is attached
5 hereto as Exhibit PL-3. Section 7.1.3.5.31 of AT&T's proposed contract with ILECs
6 addresses a process analogous to decommissioning. It provides that after termination of
7 a Space License, Qwest must remove its equipment within 30 days. If it fails to do so,
8 AT&T may, upon 10 days notice, remove the equipment and restore the site at Qwest's
9 sole risk and expense. Under Section 7.1.3.5.33, AT&T states that if Qwest owes it
10 money under the license, any equipment left at the site will be taken free of any interest
11 or lien by Qwest or treated as abandoned. Presumably, AT&T is free to deal with
12 abandoned equipment in any manner it desires. If no monies are owed by Qwest,
13 AT&T removes the equipment and ships it to Qwest's last known address at Qwest's
14 risk and expense. AT&T's own language would not require it to comply with a 90-day
15 waiting period, grant additional 30-day removal extensions, "reasonably mitigate" its
16 expenses, or provide a detailed accounting.

17 **Q. SHOULD QWEST BE REQUIRED TO PROVIDE "AN ACCOUNTING" AS AT&T PROPOSES?**

18 A. No. The request for an "accounting" is unnecessary and, as a practical matter,
19 pointless. A CLEC that has willingly relinquished its equipment to Qwest, knowing that
20 Qwest will be disposing of that equipment, has no interest in the property and has no
21 need for an "accounting." Of the hundreds of abandoned collocation sites in Qwest's
22 territory, no CLEC has ever requested an "accounting," and Qwest has never received
23 a request for an accounting regarding abandoned collocation equipment from a
24 bankruptcy trustee or estate.

1 **Q. AT&T OMITTS LANGUAGE QWEST WOULD PROPOSE TO EMPHASIZE THAT QWEST HAS**
2 **BINDING LEGAL AUTHORITY TO DISPOSE OF ABANDONED EQUIPMENT. WHY DOES**
3 **QWEST REQUIRE THE BINDING LEGAL AUTHORITY TO DISPOSE OF ABANDONED**
4 **EQUIPMENT?**

5 A. Language that addresses abandonment should also address Qwest's legal authority to
6 dispose of what has been abandoned. As the result of AT&T's language, Qwest could
7 be left vulnerable to "second thought" allegations of misappropriation of equipment or
8 property resulting in further disputes. However, Qwest's language affords Qwest
9 protection from these types of misgivings by expressly stating Qwest's legal authority to
10 dispose of abandoned equipment.

11 **Q. DOES QWEST'S LANGUAGE BENEFIT ALL CARRIERS?**

12 A. Yes. Because central office space is not unlimited, Qwest's proposed language ensures
13 that collocation space that could be made available is in fact made available more
14 quickly. Qwest's language, and not AT&T's, benefits all carriers in the circumstance of
15 abandonment.

16 **IV. CONCLUSION**

17 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?**

18 A. The Commission should adopt Qwest's proposed language. Qwest's proposed language
19 provides an efficient, economical, and flexible means to make abandoned collocation
20 space available to all CLECs and itself as well as providing CLECs the protection they
21 seek.

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

23 A. Yes, it does.

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

IN THE MATTER OF THE PETITION FOR
ARBITRATION OF AT&T
COMMUNICATIONS OF THE PACIFIC
NORTHWEST AND TCG SEATTLE WITH
QWEST CORPORATION PURSUANT TO
47 U.S.C. § 252(b)

DOCKET NO. UT-033035

**EXHIBITS TO
DIRECT TESTIMONY OF PHILIP LINSE**

ON BEHALF OF

QWEST CORPORATION

SEPTEMBER 25, 2003

INDEX TO EXHIBITS

DESCRIPTION

Exhibit

Language From An Amendment The Parties' Existing
Interconnection AgreementPL-2

AT&T's Proposed Contract Language For Collocation On Its PremisesPL-3