

Melissa E. Newman
Vice President – Federal Relations
Qwest Communications International Inc.

607 14th Street NW
Suite 950
Washington, DC 20005
202.429.3120



EX PARTE

Electronic Filing via ECFS

July 10, 2009

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers,
WC Docket No. 05-25*

Dear Ms. Dortch:

On July 9, 2009, Melissa Newman, Lawrence Sarjeant and Olivia Trusty, in person, and Robert McKenna, Carolyn Hammack, Loretta Huff, and Candace Mowers, by phone, all of Qwest, met with Marvin Sacks, Pamela Arluk, Margaret Dailey, Albert Lewis, William Sharkey, Daniel Ball, and Bill Cook of the Wireline Competition Bureau to discuss the above-captioned proceedings.

The attached document was used as a basis for our discussion.

This *ex parte* is being filed electronically pursuant to 47 C.F.R. §§ 1.49(f) and 1.1206(b). Please contact me at 202.429.3120 if you have any questions.

Sincerely,

/s/ Melissa E. Newman

Attachment

Copy via email to:

Marvin Sacks (Marvin.sacks@fcc.gov)
Pamela Arluk (Pamela.arluk@fcc.gov)
Margaret Dailey (Margaret.dailey@fcc.gov)
Albert Lewis (Albert.lewis@fcc.gov)
William Sharkey (William.sharkey@fcc.gov)
Daniel Ball (Daniel.ball@fcc.gov)
Bill Cook (William.cook@fcc.gov)

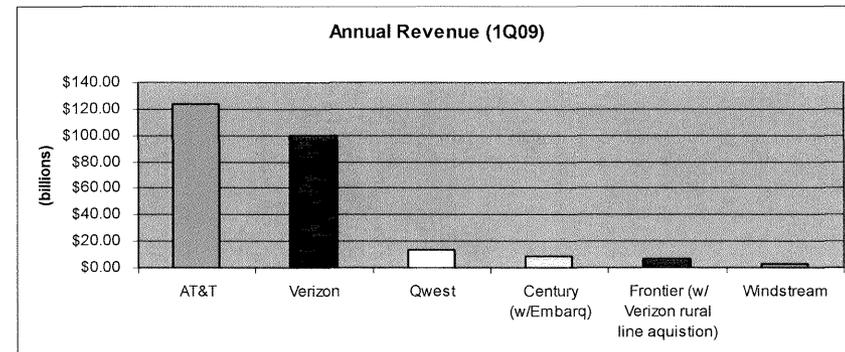
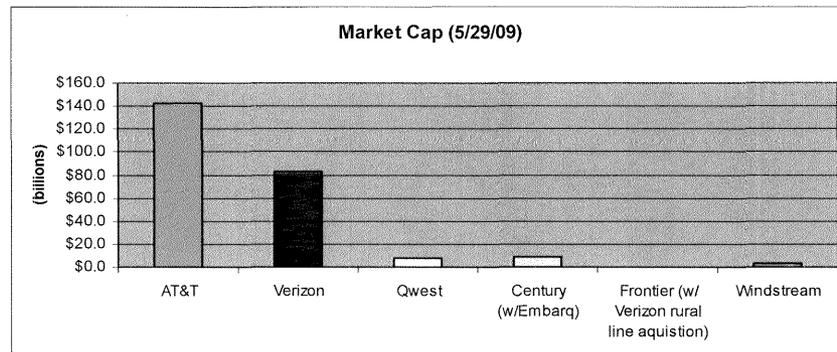
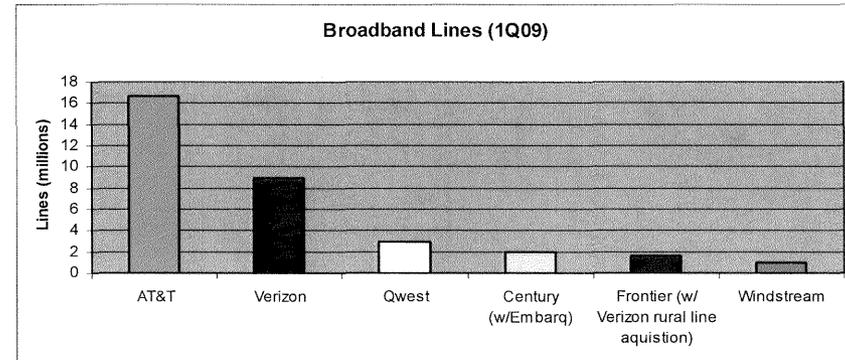
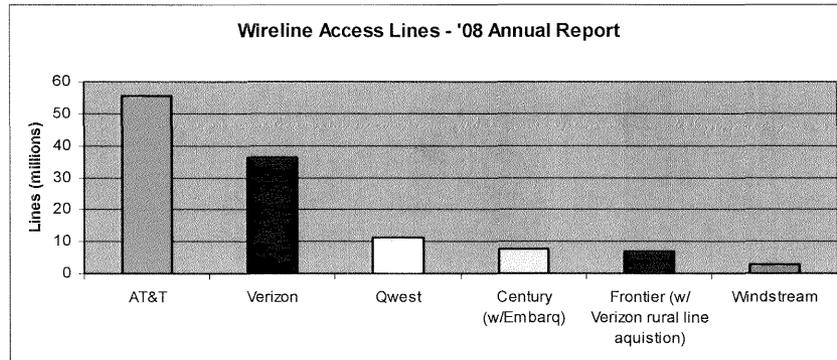
SPECIAL ACCESS IN QWEST TERRITORY

FCC Meeting
July 9, 2009

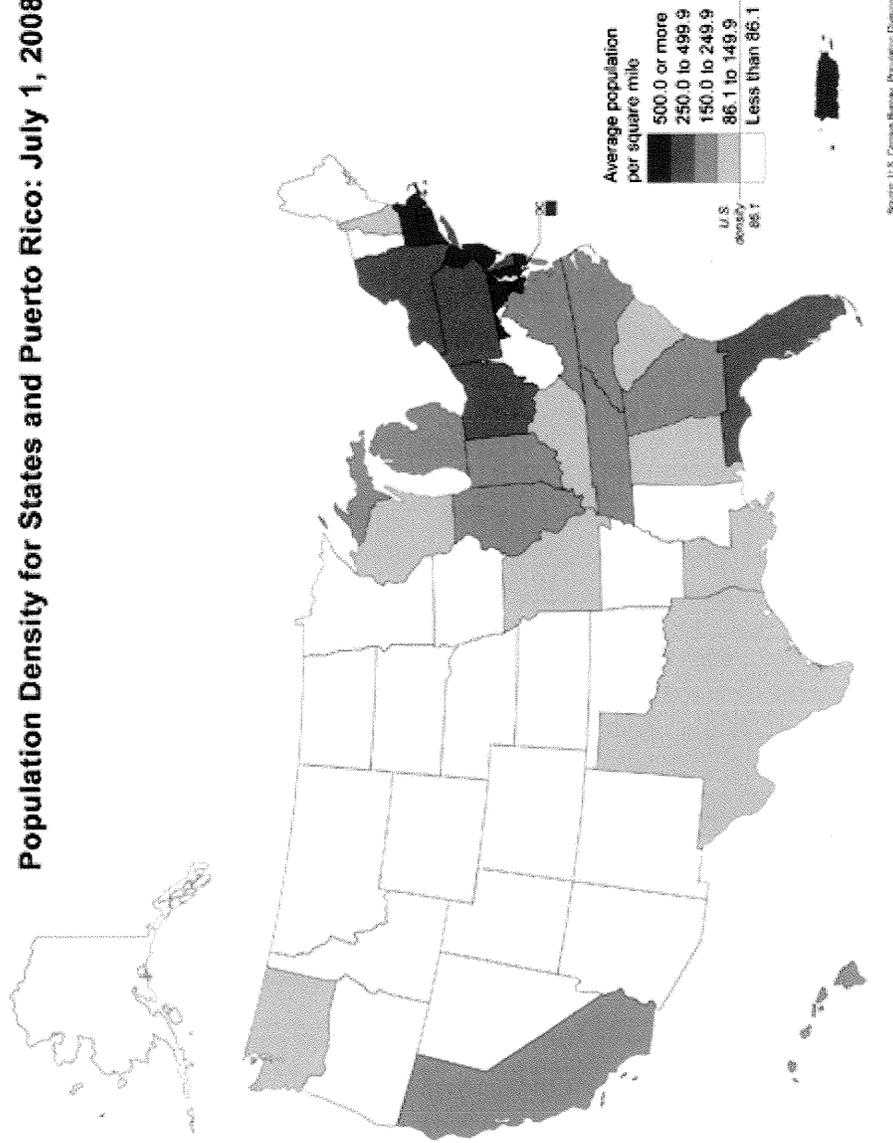
Special Access In Qwest's Territory

- The Industry & Qwest
- Special Access Competition in Qwest's Territory
- Qwest Special Access – Customer Choice & Competitive Pricing
- The Need for a Fact and Data Based Decision regarding Special Access Pricing
- Myth vs. Reality regarding Wireless Carriers and Special Access

The Industry & Qwest



Population Density for States and Puerto Rico: July 1, 2008



Qwest's service territory is rural in comparison to the rest of the nation.

The Industry & Qwest

- Qwest has made consistent, significant investments in its network.
 - \$6.7 billion since 2005
 - An additional \$1.8 billion anticipated for 2009
- Providing high-capacity services is extremely capital intensive. Under the current federal regulatory regime there has been an estimated \$60 billion in investment **each year**.
- The stability of this regime has allowed for continued broadband deployment.
- If DS1/DS3 prices are kept artificially low, there could be diminished investment in special access facilities and newer technologies.

New price controls on special access would thwart what the nation needs most today – investment in next-generation technology and network upgrades from a diverse array of market players.

Special Access Competition in Qwest Territory

- AT&T and Verizon both have an extensive presence in Qwest territory.
 - **AT&T** offers local private line services from DS-0 through OC-192.
 - AT&T also offers a full range of wholesale services to other carriers in Qwest's region.
 - **Verizon Business** provides end-to-end dedicated circuits supporting synchronous data transmission at speeds of sub-56Kbps to OC-192.

Special Access Competition in Qwest Territory

- Competition from CLECs
 - Integra/Electric Lightwave
 - Level 3
 - McLeodUSA/PAETEC
 - tw telecom
 - XO Communications
- These CLECs have all represented that they offer “carrier’s carrier” services to other telecommunications service providers.

Special Access Competition in Qwest Territory

- Competition from CLECs
 - **Integra** acquired ELI in 2006. ELI has a large presence – with its own fiber network – in the Phoenix MSA. In an interview with the *Portland Business Journal*, Integra CEO Dudley Slater outlined the benefits of the ELI acquisition:
 - “Integra, which has been leasing optic-fiber capacity from ELI’s network, will enjoy some significant cost savings from owning ELI, and will gain what Slater called ‘a list of blue-chip [telecom] carriers’ that also lease capacity for ELI. Integra has built its own metropolitan fiber networks over the years, but ‘it’s dwarfed by what ELI brings us.’”

Special Access Competition in Qwest Territory

- Competition from CLECs
 - **Level 3** offers metro private line speeds from DS-1 to OC-192;
 - Level 3 has a specific marketing group, Level 3 Business Markets Group to focus on small, medium and enterprise businesses. When it acquired Broadwing, Level 3 stated: “The acquisition of Broadwing is consistent with both the Level 3 wholesale market strategy as well as our more recent entry into the enterprise market...Broadwing has made great strides with the national enterprise customers as a result of their strong product portfolio and national sales teams.”
 - **Level 3** is also a key wholesale provider in Qwest territory. In marketing its wholesale services, Level 3 states:
 - The company provides a comprehensive suite of services over its broadband fiber optic network including Internet Protocol (IP) services, broadband transport and infrastructure services, collocation services, voice services and voice over IP services. These services provide building blocks that enable Level 3’s customers to meet their growing demands for advanced communications solutions.

Special Access Competition in Qwest Territory

- Competition from CLECs
 - **PAETEC** has offices in seven of Qwest's 14 states, and provides service to business-class customers in more than 83% of the nation's top 100 metropolitan areas.
 - *PAETEC* bills itself as the “premier alternative to the ILECs, based on our nationwide footprint, breadth of products, and quality of service.”
 - **tw telecom's** dedicated high capacity services offer a range of transmission speeds from 1.5 Mbps to 10 Gbps.
 - *tw telecom* focuses on enterprise customers and has reported that its total metro and regional fiber routes increased from 25,411 in September 2007 to 26,399 in September 2008 and that its total number of fiber-connected buildings is now 9,109, up from 8,109 in June 2007.

Special Access Competition in Qwest Territory

- Competition from CLECs
 - ***XO Communications*** states that it “has seen increased opportunities in the enterprise market as customers seek alternatives to today’s incumbent telecom companies in the wake of industry consolidation. Today, XO Communications serves 50% of the Fortune 500 and manages complex and sophisticated networks for some of the nation’s largest enterprises.”

Special Access Competition in Qwest Territory

- Competition from Cable
 - **Cox** Business grew its commercial services customers by 19% and revenues by 16%; the company will realize \$1 billion in revenue from Cox Business in 2010
 - Cox provides service to a significant portion of the small, medium and enterprise market in Phoenix;
 - Cox also provides carrier-to-carrier services and provides backbone services to wireless carriers as well;
 - **Comcast** offers wholesale services to other carriers in the Minneapolis-St. Paul MSA over its extensive coaxial and fiber network. On its website, Comcast touts the carrier benefits of its network:
 - “We offer carriers a range of services that can support your voice and data transport needs with much lower costs. From traditional TDM, ATM and SONET, to Ethernet and managed wavelength configurations, Comcast has a solution to meet virtually any requirement.”
 - “Comcast Commercial Services leverages the massive network of our parent company...Our reach is broad and deep, with capacity in dense urban, sprawling suburban and even many rural areas others can’t reach.”

Special Access Competition in Qwest Territory



- **Competition from other entities:**

- ***SDN Communications***, a coalition of independent telcos, reports on its website that it ties together 300 South Dakota cities with 21,000 miles of fiber connecting businesses from hospitals and schools, to banks and county government;
 - SDN also provides carrier-to-carrier services including wireless backhaul;
- ***American Fiber Systems*** (“AFS”) has built extensive fiber networks in many cities including Minneapolis and St. Paul. AFS leases its network to enterprise customers as well as carriers, and offers many services including dark fiber, SONET ring services and Managed Wavelength (e.g., OCn).
- ***Zayo Group***, according to its press release, assumed control of a network that serves six of the seven metropolitan statistical areas (MSAs) in Minnesota representing approximately 350 communities with a 1,400-mile fiber network (more than 50 on-net buildings) running throughout the state. Zayo describes its offerings as follows:
 - “Zayo collaborates with its carrier and enterprise customers to develop bandwidth solutions that meet their specific requirements. Carrier customers include telecom, wireless, cable TV, and Internet service providers. Enterprise customers include web-centric businesses, technology companies, government, education, financial services, healthcare, large enterprise and other bandwidth dependent businesses.”

Even with the rural nature of Qwest’s territory, competition and competitive choice for consumers and carriers is thriving.

Qwest Special Access Pricing

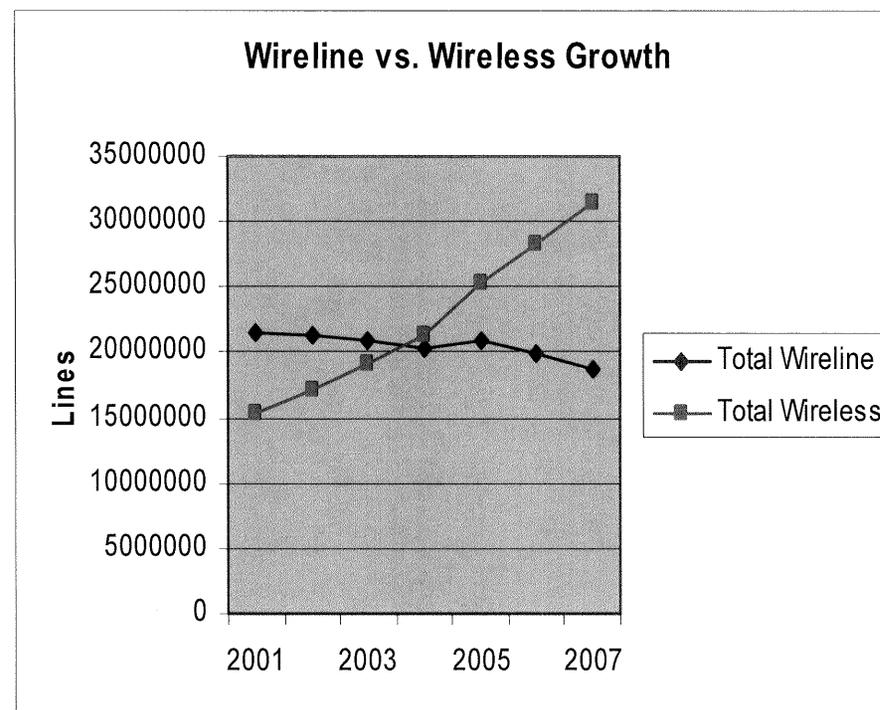
- Contrary to assertions by opponents of continually increasing prices in the special access market, Qwest has not increased tariffed rates in its Price Flex areas since 2004;
 - Qwest offers multiple discount opportunities including a regional plan that provides a discount off the tariffed rate while providing the flexibility of adding or subtracting facilities throughout Qwest’s territory;
 - In addition, Qwest has recently introduced a new option which allows customers to migrate DS-1s currently under an RCP to a fixed term contract;
 - To facilitate moves to this new plan, Qwest agrees to waive the RCP termination liability when the DS-1s are moved to a fixed term contract;
 - This RCP “exit provision” enables customers to ultimately migrate DS-1s to new fiber-based technologies, e.g., SONET, Ethernet, etc.

Qwest Provides Customers with Choices and Competitive Pricing

Myths vs. Reality Facts

Wireless Carriers & Special Access

- The assertion that special access prices will drive wireless companies out of business is absurd.
- As the chart to the right demonstrates, the wireless industry is thriving in the Qwest region.
- Fixed wireless providers also offer wireless DS1/DS3 services, which are competitive with their wireline counterparts.
- Firms are also investing in competitive alternatives. For example:
 - Clearwire is deploying a WiMax network that will reach 120 million people, including 75% of the top 50 markets by the end of 2010, and has stated that it has over 18,000 cell sites now under development.
 - FiberTower offers services to mobile wireless carriers, competitive and local exchange carriers, and to government and enterprise customers. FiberTower's network currently covers approximately 12,000 route miles with 7,000 miles covered using fixed wireless and another 5,000 miles using dark fiber. It also has customer agreements with the eight largest U.S. wireless carriers.
- While other firms continue to invest in network infrastructure, Sprint's capital expenditures in 2008 fell 58% from its 2007 level. In May, Sprint reported its first quarter 2009 financial results, which showed that its capital expenditures were down 79% over the same quarter last year.
- Sprint's own Chief Technology Officer observed that the reason microwave backhaul is not more prevalent in the United States is not because the technology is unavailable, untested or uneconomic – but because the price of DS-1s are so low.
 - As one analyst notes, “[w]ireless implementation of metro backhaul have long dominated in Europe. In North America, however, more TDM copper backhaul has been historically employed primarily as a result of the low cost ILEC T1 TDM circuits available through US unbundling regulations. (E. Bock, *Backhaul for WiMax & LTE: High Bandwidth Ethernet Radio Systems* at 22, *Microwave Journal, International Edition* (Nov. 2008)
- A May 2009 study released by IE Market Research predicts growth of over 78 million wireless subscribers over the next four years – (from the current 270.3 million to 348.6 million)



The Need for Facts and Data

- Competitive providers of high capacity services – including some of the same companies complaining that DS1/DS3 special access prices are too high have repeatedly refused to provide critical information to policy makers.
 - The Government Accountability Office (GAO), the FCC and the National Regulatory Research Institute (NRRI) all have acknowledged the absence of information from competing suppliers of special access;
 - The GAO found that the FCC, despite its multiple requests for data, “has no specific or current data on competitors’ prices for dedicated access services or on the extent to which competitors have extended their networks.”
 - The Phoenix Center, in its June 2009 paper entitled, “*The Need for Better Analysis of High Capacity Services*” stated:
 - “At the end of the day, the crux of the problem is that there simply is not sufficient data to make an informed decision about the state of competition in the markets for high capacity services and, by extension, whether additional regulation is warranted...The only fact we know today is that despite a decade-long search for market power, there simply is no credible evidence that supports any radical change in the current regulatory approach.”

The lack of a comprehensive set of facts and data fatally undermines the ability of policy makers to fully evaluate special access competition.