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EX PARTE

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June 23, 2010

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

Re: *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers, WC*  
Docket No. 05-25; *In the Matter of a National Broadband Plan for Our Future, GN*  
Docket No. 09-51

Dear Ms. Dortch:

On June 22, 2010, Robert McKenna, Carolyn Hammack and Melissa Newman, in person, and Kristy Pecks, by phone, all of Qwest; Jon Nuechterlein and Samir Jain, representing Qwest; and Amber Sells, an intern at Qwest, met with Sharon Gillett, Nick Alexander, Al Lewis, Don Stockdale and Marcus Maher of the Wireline Competition Bureau to discuss the above-captioned proceedings.

The attached document was used as the basis for 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:  
Sharon Gillett  
Nick Alexander  
Al Lewis  
Don Stockdale  
Marcus Maher

# Ex Parte Presentation

Qwest Communications  
June 22, 2010

# Qwest *Ex Parte* Outline

- Small Business Market in Qwest's 14-State Territory
  - Overview
  - Review of Qwest Small Business offerings
    - Wholesale
    - Retail
- Qwest Fiber Deployment & Competition
  - Overview of Qwest Deployment
  - Qwest Metro Network Infrastructure
  - Fiber-to-the-Cell Opportunity
- Qwest's Special Access Competitive Framework Proposal

## Qwest's Small Business Market

Qwest has a less than 50% share of the small business market in many MSAs

# Small business market in Qwest's 14-State Territory

## Small Business Market Customers

Competitor Customers  
394,000

Qwest Customers  
575,000

## Small Business Market Revenue

Qwest  
\$1.0B

Total Market \$4.3B

Competitors  
\$3.3

**Qwest has approximately 62% of the small business market lines, but only receives 23% of the small business market revenue since most customers use more than one supplier for their small business needs.**

# Portland MSA Small Business Market Share by Type of Competitor

ILEC  
CLEC  
Cable  
Wireless

**The Small Business Market is fiercely competitive. Qwest has lost considerable access line share to CLECs, Cable, and Wireless providers.**



# Minneapolis MSA Small Business Market Share by Type of Competitor

ILEC  
CLEC  
Cable  
Wireless

**CLECs now have market share nearly equal to Qwest's access lines in  
the Minneapolis Small Business Market.**



## Omaha MSA Small Business Market Share by Type of Competitor

ILEC  
CLEC  
Cable  
Wireless

**Omaha is a demonstration of successful competition -- not a “Failed Experiment.”**



# Qwest Small Business Solutions for Wholesale Partners

- UNE Loop and Transport facilities are still available to CLECs in the vast majority of Qwest wire centers
  - DS1 unbundled loops are available in **97%** of Qwest wire centers (1187 out of 1219 wire centers)
  - Unbundled DS1/DS3 transport is available in **92%** of Qwest wire centers (1127 out of 1219 wire centers)
- CLECs have use of copper facilities throughout Qwest's network for provision of advanced services to small businesses
  - Covad's 2/16/10 ex parte states that Ethernet level services from 3 to 20 Mbps and bonded T1s from 1.5 to 12 Mbps can be provisioned over copper facilities
  - XO in its 1/28/10 ex parte states that copper technology allows up to 50 Mbps today with possibly 100+ Mbps in the future.
  - **Qwest generally retires copper facilities only when required as a result of facility relocation (federal, state, city mandated moves)**
- Qwest offers many other commercial solutions to its Wholesale partners to serve the small business market including:
  - Qwest Broadband for Resale
  - Qwest Commercial Line Sharing
  - Qwest Commercial Network Element Switching
  - Qwest Commercial Shared Distribution Loop
  - Qwest Local Services Platform

*These products, services, and facilities, in addition to Special Access options, provide CLECs with flexibility and choice in how they provision service to their small business customers.*

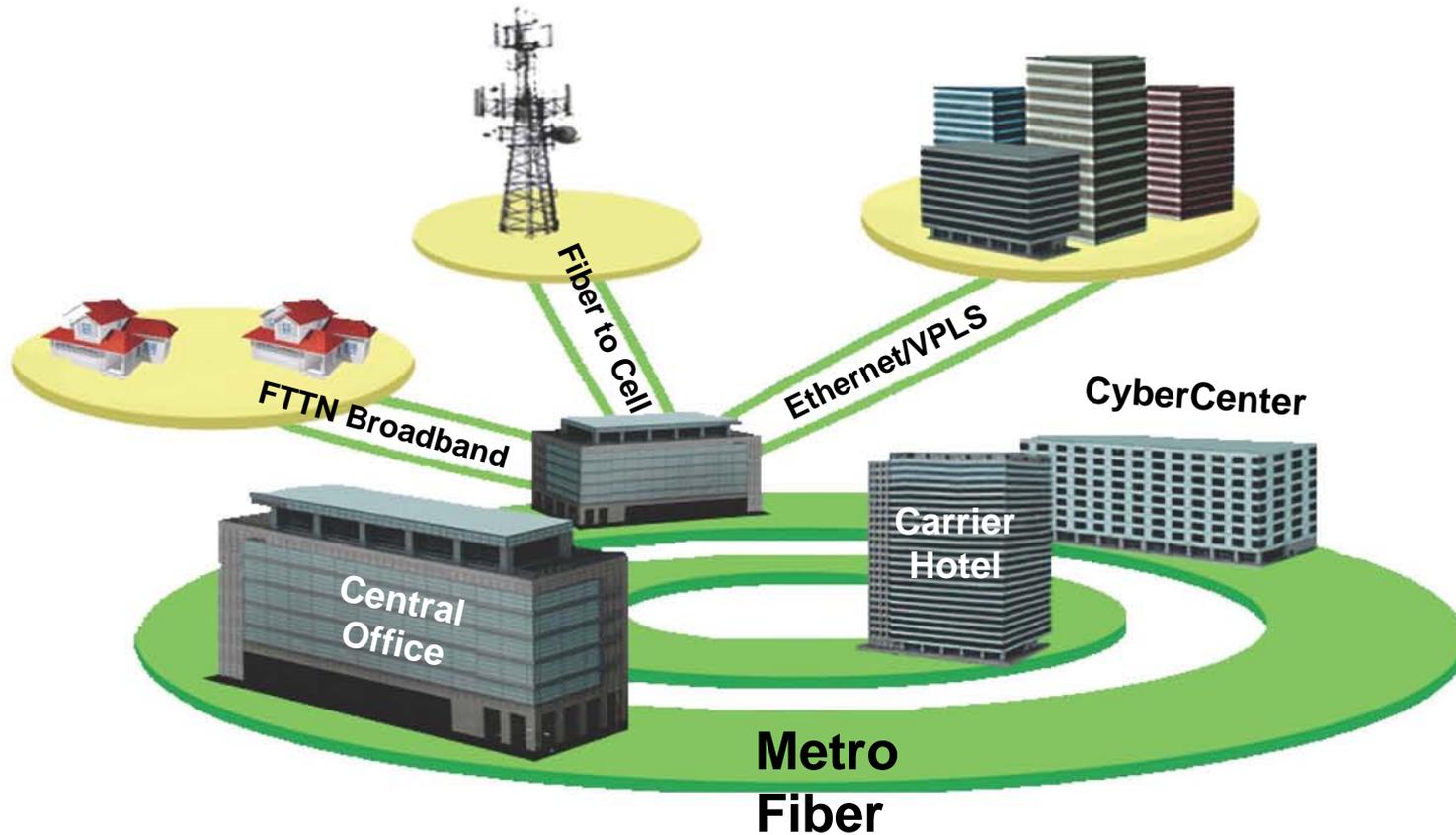
# Qwest Retail Small Business Solutions

- Qwest has two large dedicated teams that focus support on the small business market (0 to 30 employees).
- Qwest provides small businesses with affordable access to “big business” technology solutions. The solutions provide feature-rich services including on-line tools such as website development and hosting, security applications and cloud computing options through 17 data centers in 12 major markets.
- Qwest’s Core Connect product is receiving very favorable reviews from small business customers – with those customers citing the advanced capabilities it provides to them to grow their business.
- Qwest offers a Small Business Advisor that helps small businesses with how to use technology. The Small Business Advisor’s only role is to help them understand technology. They do not promote Qwest products or Services. The Small Business Advisor’s website is located at: <http://www.qwestconnectthedots.com/>
- In addition, Qwest offers a Small Business Referral program which pays a cash reward for every small business referral. Details can be viewed at: <http://www.qwestbizreferrals.com/>
- In May, Qwest introduced new 3-, 5-, and 7-Megabits per second (Mbps) Ethernet bandwidth services that are ideal for small- and medium-sized businesses.
  - The new Qwest Ethernet services simplify the integration of local area networks (LANS) across multiple locations and provide access to other networks with minimal investment in new equipment or expertise.

***For both Wholesale and Retail, Qwest provides solutions that bring advanced communications capabilities to small business customers.***

# Qwest Fiber Deployment

# Qwest's metro network infrastructure



As a broadband company, this model illustrates how we have deployed – and will deploy – our metro networks in the future

# Qwest Fiber Deployment

## Fiber to the Cell

- **Qwest does not have a wireless business, AND we are very interested in providing backhaul for those carriers that do.**
- Overview of current effort
  - 18,000 cell sites in Qwest's 14-state territory.
    - Nearly 4000 sites currently under contract with three wireless providers with several others in negotiation.
    - Discussions underway in rural areas for cost effective solutions.
  - Qwest also provides opportunities for businesses located near new fiber builds to take advantage of the proximity of the fiber for Ethernet-based services.
- **Significant competition exists in the backhaul market.**
  - Qwest faces fierce competition in this market from cable, CLECs, independent fiber providers, and fixed wireless providers.

## Overall Fiber Deployment

- Qwest FTTN is now available to over 3.8 million households
  - However, Qwest does not have a ubiquitous fiber network and must carefully analyze when and where it makes sense to build fiber facilities.

***The light regulatory touch applied to fiber has encouraged significant investment in fiber facilities that are enabling carriers to meet the ever-growing consumer demand for bandwidth.***

# Qwest Competitive Framework Proposal

# Qwest's Proposed Analytical Framework

- *Step 1:* Identify representative sample of Phase I and II markets.
- *Step 2:* Gather detailed data on an MSA-basis from all providers in those markets, including inter-modal competitors.
- *Step 3:* Use gathered data to conduct market power analyses in those markets.
- *Step 4:* Assess accuracy of collocation triggers.
- *Step 5:* Evaluate reasonableness of special access rates by benchmarking against ILEC rates in Phase II markets that the Commission finds competitive.

***Collecting detailed data from all providers is critical to any analysis of the Special Access market.***

## Step 1: Identify Representative Sample of Phase I and II Markets

- Since it will be necessary to gather data from all providers in a market, there is reason to use a stratified random sampling method.
- For example, because there are differences in how businesses in capital-intensive industries operate, often depending on population, it is reasonable to group the sample Phase I and Phase II markets in a way that acknowledges those differences. As a initial step, Qwest proposes the following delineation of MSAs into groups:
  - Very Large
  - Large
  - Medium
  - Small
- The largest and smallest are defined by the population, number of businesses in an MSA, or some combination of the two measures.
  - An option would be using the average rank score of the two measures.

## Step 2: Gather Comprehensive Data for Representative Markets

- Meaningful market power analysis depends on comprehensive data gathering
- Collect at MSA level
- Data required from all potential alternatives to DS1s and DS3s (e.g., cable, Ethernet, fixed wireless, mobile wireless, satellite, alternative fiber), including those that do not collocate
- Also should collect data from the customer perspective, including wireless providers;
- US Telecom and AT&T proposals provide a framework for data gathering

***All data must be subject to critical scrutiny, subject to reasonable protections for proprietary data***

## Step 3: Conduct Market Power Analysis in Representative Markets

- Must consider actual and potential competition;
- Examine price constraints arising from competition, rather than focusing on total number of competitors or static market share;
- Analyze economics of extending existing facilities by means of data collection from all providers;

***It is critical that inter-modal competition be fully included – this key component is not reflected in current collocation-based triggers.***

# DISCONNECT – WHAT CLECS TELL INVESTORS AND WHAT THEY TELL REGULATORS

## A Large Opportunity Near Our Network

~ 8 million U.S. businesses reside in TWTC markets

~ 2.0 million are "target" businesses  
at sites with 2+ DS1s of bandwidth utilization

*Leveraging our  
investment...*  
~ Nearly 1,000,000  
"target" businesses  
are within 1 mile of  
TWTC's fiber

Source: GeoResults data customized for TWTC business markets & infrastructure



## *Step 4: Assess Reasonableness of Collocation Triggers*

- Analysis of competition in Phase II markets could help determine whether or not triggers are over-inclusive.
- Analysis of competition in Phase I markets could help determine whether or not triggers are under-inclusive.

## Step 5: Evaluate Reasonableness of Rates in Non-Sampled Markets

- ILEC rates in Phase II markets found to be competitive are by definition “just and reasonable”
- These rates also can be used as benchmarks to evaluate the reasonableness of rates in other markets, including Phase I, non-sampled Phase II, and price cap markets

***Qwest’s proposed framework provides a simple, straightforward mechanism for the Commission to undertake this analysis.***

***Policymakers should err on the side of imposing too little rather than too much price regulation. Over the long term, the market itself will correct under-regulation, but it cannot correct over-regulation.***

***Artificial regulatory price reductions have the potential to prolong reliance on legacy services and dampen incentives for investment in next-generation services.***

## tw telecom's Request to "Undo" the Broadband Forbearance is Unsupported and Wrong

- tw telecom requests that the FCC reverse the broadband forbearance decision, at least insofar as it removed Ethernet from dominant carrier status
- tw telecom has made these identical arguments several times to the Commission, which has rejected them each time.
- tw telecom has also made these identical arguments to the DC Circuit Court of Appeals, which rejected them.
- tw telecom's arguments concerning Ethernet are also directly contradicted by its statements to investors.
- Reversal of a forbearance grant must be based (at the very least) on compelling evidence. There is no such evidence on this record.

***The Commission's Title II NOI (at para. 98) seeks to assure the industry about the extreme difficulties the Commission would face if it sought to reverse a forbearance decision. Any FCC proposal to reverse the enterprise broadband forbearance orders would draw those assurances into doubt.***