

June 24, 2011

VIA ECFS

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

**Re: *Unbundled Network Elements, WC Docket No. 04-313; Review of the Section 251
Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-
338***

Dear Ms. Dortch:

On June 3, 2011, Gene Watkins of Cbeyond, Inc. (“Cbeyond”) and the undersigned met with representatives from the General Counsel’s Office and the Wireline Competition Bureau to explain why the Commission should clarify that the definition of a business line in Section 51.5 of the Commission’s rules should include unbundled network element (“UNE”) loops that only (1) serve business customers and (2) are connected to switches.¹ During the meeting, we explained that it is relatively easy to identify the UNEs used to serve business lines connected to switches. As Mr. Watkins explained, competitors and incumbent LECs routinely undertake this kind of line identification process. The attached ex parte filing by Qwest, in which Qwest describes its methodology for counting business lines, proves this point. As Qwest explains in the letter, Qwest undertook exactly the type of verification process with CLECs that is required to identify UNEs used to serve business lines connected to switches. Qwest’s own conduct, therefore, fully refutes any argument that it is too burdensome or difficult for incumbent LECs to identify UNE business lines connected to switches.

¹ See Letter from Thomas Jones, counsel for Cbeyond, Inc. to Marlene Dortch, WC Docket No. 04-313, CC Docket No. 01-338, filed June 7, 2011.

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Please do not hesitate to contact me at (202) 303-1111 if you have any questions or concerns regarding this submission.

Respectfully submitted,

/s/ Thomas Jones
Thomas Jones
Counsel for Cbeyond, Inc.

cc (via email): Austin Schlick
Richard Welch
Laurel Bergold
Jacob Lewis
Peter Karanjia
Deena Shetler
Bill Dever
Tim Stelzig
Melissa Kinkel
Lisa Gelb



Qwest
607 14th Street NW, Suite 950
Washington, DC 20005
Phone 202.429.3121
Fax 202.293.0561

Cronan O'Connell
Vice President-Federal Regulatory

July 8, 2005

FILING VIA ECFS

Thomas Navin
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Unbundled Access to Network Elements, WC Docket No. 04-313;
Review of Section 251 Unbundling Obligations for Incumbent Local
Exchange Carriers, CC Docket No. 01-338**

Dear Mr. Navin:

On February 18, 2005, in response to a request by the Wireline Competition Bureau, Qwest submitted lists identifying by Common Language Location Identifier ("CLLI") code the wire centers in Qwest's operating area satisfying the nonimpairment thresholds for high capacity transport and loop facilities established in the *Triennial Review Remand Order* ("TRRO").¹ Since that time, Qwest has undertaken a detailed verification process to ensure the accuracy of these lists. As a result of this review, Qwest hereby submits revised lists of the wire centers in Qwest's region meeting the TRRO's nonimpairment thresholds for high capacity transport and loop facilities.

Enclosed are two attachments. Attachment A identifies which of Qwest's approximately 1200 wire centers satisfy the Tier 1, Tier 2, and Tier 3 criteria adopted in the TRRO. As shown in Attachment A, there are 46 and 30 Qwest wire centers that satisfy the Tier 1 and Tier 2 criteria, respectively. Attachment B lists the Qwest wire centers that satisfy the nonimpairment standards for DS1 and DS3 loops in the TRRO. As reflected in Attachment B, Qwest has been relieved of unbundling requirements for DS1 and DS3 loops in 4 and 7 Qwest wire centers, respectively. The lists in Attachments A and B are also being posted on Qwest's website.²

¹ Letter from Gary R. Lytle, Senior Vice President-Federal Relations, Qwest, to Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, FCC (filed Feb. 18, 2005).

² Qwest has not rejected any orders for unbundled transport or unbundled loops in the wire centers identified in the lists of nonimpaired wire centers submitted on February 18. Competitive local exchange carriers ("CLECs") can continue to order high capacity transport and loops in all Qwest wire centers until their interconnection agreements with Qwest have been amended to reflect the TRRO.

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On March 29, 2005, Qwest initiated a three-step process to ensure the accuracy of its wire center data. *First*, Qwest provided access for CLECs and state public service commission staff to the confidential data underlying the February 18 lists of Qwest wire centers meeting the nonimpairment thresholds in the *TRRO*. The confidential data were made available pursuant to the terms of the applicable protective order and included the following information for each wire center identified in one or both of the February 18 lists:

- ARMIS 43-08 business line information
- UNE-P lines
- UNE-loop data
- fiber-based collocator information

Second, Qwest provided to each party upon which it relied for unbundling relief in the February 18 filing a list of the relevant wire centers where that party has fiber-based collocation, according to Qwest's records. Those parties then had the opportunity to contest the accuracy of that information. This process is similar to that employed by the Commission in the pricing flexibility dockets to verify the accuracy of the collocation information relied on in those proceedings. In light of the highly sensitive nature of the collocation information, Qwest allowed each collocator access only to its own collocation information in the relevant wire centers.

Third, Qwest conducted a further internal check of the collocation and line count data used to generate the February 18 wire center lists, including a comprehensive review of the collocation arrangements in Qwest's wire centers.

A number of parties took advantage of this process to gain further information about the data underlying Qwest's lists of nonimpaired wire centers, or to question the validity of Qwest's line count or collocation data. Qwest also answered numerous detailed questions from CLECs about the methodology used to identify nonimpaired wire centers.

Through this verification process, Qwest identified a number of data inaccuracies in the lists of nonimpaired wire centers submitted on February 18. *First*, Qwest discovered that, in some cases, it had counted a fiber-based collocator twice because the Qwest records used for the February 18 filing did not reflect the affiliation of that collocator with another fiber-based collocator in that wire center. In several cases, CLECs notified Qwest of these affiliations in response to the collocation information provided by Qwest in the March 29 letters noted above. To address any lingering concerns of double counting, Qwest checked other data sources to determine potential affiliations and then sent letters to the affected carriers requesting verification of those or any other affiliations. *Second*, Qwest found that, in a small number of cases, collocation arrangements using dark fiber transport leased from Qwest had been counted as fiber-based collocations, due to inaccuracies in service orders. *Third*, Qwest discovered that certain collocation arrangements counted in the February 18 filing had been decommissioned or

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otherwise were not operational. *Fourth*, Qwest identified additional fiber-based collocators that it had not counted as fiber-based collocators for purposes of the February filing. Due to the compressed timeframe for the inspections in February, Qwest ignored numerous collocation arrangements that could not readily be verified as fiber-based collocators at that time. Upon further investigation in April and May, Qwest was able to confirm that some of these arrangements did in fact qualify as fiber-based collocation arrangements.³

Qwest has corrected all inaccuracies in its data that were discovered through the verification process described above, and, as necessary, has revised its count of wire centers meeting the nonimpairment thresholds for high capacity transport and loops in Attachments A and B.

Please let me know if you have any questions about this matter.

Sincerely,

/s/ Cronan O'Connell

Attachments

cc: Julie Veach (via e-mail at Julie.Veach@fcc.gov)
Jeremy Miller (via e-mail at Jeremy.Miller@fcc.gov)
Ian Dillner (via e-mail at Ian.Dillner@fcc.gov)

³ Qwest is in the process of notifying the owners of these collocation arrangements that Qwest is now relying on these collocation arrangements for unbundling relief, so that the collocators have an opportunity to verify the accuracy of this collocation data. If this further verification results in any changes in the number of fiber-based collocators in particular wire centers, Qwest will revise its list of nonimpaired wire centers as necessary.