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**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into  
U S WEST COMMUNICATIONS, INC.'s  
Compliance with Section 271 of the  
Telecommunications Act of 1996.

Docket No. UT-003022  
METRONET'S ANSWER TO QWEST'S  
PETITION FOR RECONSIDERATION

MetroNet Services Corporation ("MetroNet") urges the Commission to deny Qwest's petition for reconsideration on tariffing Centrex Prime. MetroNet does agree that Centrex Prime prices should not be included in the SGAT. The Qwest tariff and/or price list is the proper place for Qwest's retail prices.

Qwest asserts that it believes the Commission's order requiring tariffing of Centrex Prime "is premised on a mistake of fact". Qwest speculates that the ALJ and Commission believe that CLECs had no way to know the Centrex Prime prices for purposes of resale. MetroNet offers no speculation of its own regarding whether or not this was the factual basis for the Commission's orders. MetroNet notes, however, that the record would fully support such an assumption by the ALJ and the Commission. Qwest's petition to reconsider completely ignores the evidence adduced by MetroNet during the workshop in this docket. Excerpts of MetroNet's earlier brief, which fully set forth the record relating to resellers' inability to determine Centrex Prime prices for purposes of resale are attached hereto for the Commission's convenience.

Not only does Qwest's petition for reconsideration ignore evidence that would support the Commission's order, Qwest's petition is based on new factual assertions that are

1 unsupported with citations to the record in this docket. Qwest attempts to bolster the record by  
2 submitting "Exhibit B" to its petition which is not currently part of the record. The Commission  
3 should disregard and reject Exhibit B. Basing a petition for reconsideration on new evidence is  
4 improper and unfair to the responding party.

5 Qwest offers no legitimate reason for its desire not to tariff and/or price list  
6 Centrex Prime. Qwest acknowledges that Centrex Prime is currently priced in contracts. Qwest  
7 asserts that the underlying services in Centrex Prime are in part competitively classified and in  
8 part monopoly services. Curiously, Qwest then asserts that the current prices for Centrex Prime  
9 are not structured in a way as to allow a division between the competitive and non-competitive  
10 services. This appears to constitute an admission by Qwest that its contract prices for Centrex  
11 Prime violate RCW 80.36.150(5), which provides, in relevant part:

12 If a contract covers competitive and non-competitive services, the non-  
13 competitive services shall be unbundled and priced separately from all other  
services and facilities in the contract.

14 If Qwest's contracts for Centrex Prime complied with RCW 80.36.150(5), it should be a simple  
15 matter for Qwest to include the competitive services in its price list on the non-competitive  
16 services in its tariff. Perhaps Qwest's argument that this is not possible gives a glimpse into  
17 Qwest's true reasons for not wanting to comply with the Commission order.

18 MetroNet submits that the real reason that Qwest does not want to tariff its  
19 Centrex Prime service is that it is unlawful under Washington law as currently structured, in a  
20 number of respects. First, Qwest apparently has failed to comply with RCW 80.36.150(5).  
21 Moreover, because the service does bundle competitive and non-competitive services,  
22 (specifically the feature package with the network access channel) if Qwest were to tariff the  
23 service in its current form, Qwest would also be in violation of the Commission's directives in  
24 Docket UT-950200 (15<sup>th</sup> Supplemental Order) and Docket UT-9411488 (4<sup>th</sup> and 6<sup>th</sup>  
25 Supplemental Orders) to unbundle features from the NAC. If Qwest is forced to unbundle the  
26 Centrex Prime NAC from features, then Qwest will be forced to price the NAC on a per system

MetroNet's Answer To Qwest's Petition For  
Reconsideration - 2

1 basis, rather than a per location basis, in order to comply with the Commission's 15<sup>th</sup>  
2 Supplemental Order in Docket UT-950200. This in turn might make Centrex Prime viable for  
3 resale, something Qwest has successfully avoided, as is conclusively demonstrated by the record  
4 in this docket.

5 While MetroNet's interpretation of Qwest's motives is admittedly speculative, two  
6 things are clear. First, Qwest has offered no legitimate reason and no evidence of record to  
7 support its request to not comply with the directive to tariff and/or price list Centrex Prime  
8 service. Second, if Qwest's petition is motivated by a desire to avoid complying with applicable  
9 law and Commission orders this is not a reason to excuse compliance with the Commission  
10 order. Rather, it is an additional reason that Qwest should be forced to make its rate structure  
11 public and bring it into compliance with applicable laws and prior Commission orders. Doing so  
12 will not only remove a restriction on resale as required by the Federal Telecommunications Act  
13 (and a prerequisite to Section 271 approval), but also ensure that Centrex Prime complies with  
14 applicable state law.

15 Respectfully submitted this 12<sup>th</sup> day of September, 2001.

16 MILLER NASH LLP

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