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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 § 271 of those
Telecommunications Act of 1996

Docket No. UT-003022

In the Matter of U S WEST Communications,
Inc.'s Statement of Generally Available Terms
Pursuant to Section 252(f) of the
Telecommunications Act of 1996

Docket No. UT-003040

**QWEST'S ANSWER TO COVAD'S
MOTION TO STRIKE TESTIMONY
OF ROBERT L. STRIGHT**

INTRODUCTION

Qwest Corporation ("Qwest") hereby responds to Covad's Motion to Strike the Testimony of Robert L. Stright of the Liberty Consulting Group. Covad complains that Qwest did not file Mr. Stright's testimony in a timely manner. Qwest disagrees with Covad. Mr. Stright is not a Qwest witness, but an independent consultant hired by the Regional Oversight Committee ("ROC") to reconcile Qwest's data. As such, his testimony was not due until March 22. Mr. Stright had Qwest file his testimony for him on March 15, 2002, one week early. Given that the testimony was timely filed, Qwest respectfully requests that the Commission deny Covad's Motion.

Moreover, the Commission, as a member of the ROC, has retained Liberty to perform work on its behalf. Although Covad claims that the testimony should have been submitted on March 8, 2002, Qwest expects that the Commission will be well served by learning about data reconciliation from its independent consultant, who performed the work. Additionally, there has been no showing that any party has been prejudiced by the timing of the filing. The equities, therefore, also support allowing Mr. Stright to testify.

1 **ARGUMENT**

2 Covad asserts that the Commission should strike the testimony of Robert L. Stright of the Liberty
3 Consulting Group as untimely filed. Covad bases this assertion on the Commission’s 27th Supplemental
4 Order (“27th Order”). The 27th Order does not support Covad’s assertion.

5 The 27th Order required Qwest to file its “performance results (October 2001 – January 2002),
6 Washington Data Reconciliation Report, and any other completed state reports.” To fulfil this
7 requirement, on March 8, 2002, Qwest filed the testimony of Mr. Michael Williams, along with the
8 requested performance data and all five of Liberty Consulting’s data reconciliation reports issued to date.
9 Thus, this filing met the requirements of the Commission’s 27th Order. This provision of the Order
10 required Qwest to file material on March 8; it did not impose obligations on any other party to this
11 proceeding.

12 The 27th Order also stated that “responsive testimony and redlined data reconciliation reports”
13 should be filed on or before March 22, 2002. This provision sets forth a filing requirement for testimony
14 filed by anyone other than Qwest. While the 27th Order does not specifically contemplate testimony
15 from Liberty Consulting, this generic provision would appear to apply to all interested parties other than
16 Qwest. This includes Liberty Consulting, who is a party to the data reconciliation process.

17 Covad claims that Qwest filed Mr. Stright’s testimony on March 15, 2002. This is technically
18 correct. Qwest did make the formal filing. However, Mr. Stright provided his testimony to Qwest on
19 March 14, 2002, and asked Qwest to file it for him because he had no physical means of making a filing
20 in Washington. Thus, Mr. Stright’s testimony is not “Qwest’s” testimony, but the comments of an
21 independent third party filed on March 15, a full seven days before it was due. Qwest concedes that this
22 particular issue could have been more clearly explained in its cover letter, but the fact that it was not does
23 not alter the circumstances.

24 Mr. Stright has testified in numerous proceedings to date on data reconciliation. He testified in
25 Arizona on two occasions, in Colorado, in Nebraska, and in North Dakota. The first four times he
26 testified Mr. Stright did so as a commission staff witness, not as a Qwest witness. In North Dakota, on

1 March 18, Qwest was required to call Mr. Stright as an independent fact witness because the staff did
2 not have a technical means of calling Mr. Stright themselves. Thus, Covad and AT&T have both seen
3 Mr. Stright testify as an independent witness on several occasions. They have worked with Mr. Stright
4 closely over the last seven months that Liberty has been completing the data reconciliation. They are well
5 versed in Mr. Stright's views and conclusions.

6 Finally, the Commission itself, as a member of the ROC, has retained Mr. Stright for the express
7 purpose of having him and his company – the Liberty Consulting Group – perform an independent data
8 reconciliation. There is no better person to inform the Commission about the status of data reconciliation
9 than the person who completed the work, an independent third party. The Commission has a vested
10 interest in hearing from Mr. Stright.

11 **CONCLUSION**

12 For all of the aforementioned reasons, Qwest respectfully requests that the Commission deny
13 Covad's Motion.

14 Dated this 1st day of April, 2002.

15 QWEST

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