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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

**SUPPLEMENTAL RESPONSIVE TESTIMONY OF
GREG BOGUS
FOR
METRONET SERVICES CORPORATION**

OCTOBER 31, 2000

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Q. PLEASE STATE YOUR NAME, POSITION, EMPLOYER, AND BUSINESS ADDRESS.

A. My name is Greg Bogus. I am Chief Operating Officer of MetroNet Telemanagement Corporation. My business address is 800 Stewart Street, Suite 320, Seattle, Washington 98101. I am filing this testimony on behalf of MetroNet Services Corporation (“MetroNet”).

Q. PLEASE REVIEW YOUR EDUCATION AND RELEVANT WORK EXPERIENCE.

A. I have over 28 years of experience in the area of telecommunications that includes positions in management, accounting, finance, sales, marketing and operations. Since 1997, I have served as the Chief Operating Officer of MetroNet Telemanagement Corporation. Prior to this, I worked for 21 years in various management positions with Pacific Telecom, Incorporated (“PTI”) and its subsidiaries. From 1992-1997, I was the Western Region Marketing Manager for PTI and directed the marketing and sales of all its local service products, including Centrex, voice messaging, CPE, enhanced services, data services and Internet products. From 1987-1992, I was the General Manager for a PTI subsidiary that furnished telecommunications switching/transmission services for the U.S. military and large public sector companies. Between 1975 and 1987, I held management positions in accounting, marketing, business development and operations with various PTI subsidiaries. Between 1972 and 1975, I worked as an accountant and billing administrator for GTE Northwest.

I received a B.A. in Business Administration from the University of Washington in 1971 and an M.B.A. from Southern Illinois University in 1983.

1 **Q. WHAT IS YOUR PURPOSE IN FILING THIS TESTIMONY?**

2 A. I will show how Qwest intentionally and repeatedly has taken actions to foreclose resale
3 competition for Centrex products which have created unreasonable and discriminatory
4 conditions and limitations on the resale of Qwest's services.

5 **Q. HOW HAS QWEST FORECLOSED COMPETITION?**

6 A. Qwest: (i) bundles monopoly elements of its Centrex Plus service with elements
7 classified as competitive, (ii) invokes pricing schemes that have a disproportionate impact
8 upon resellers when compared to Qwest's retail customers, (iii) repackages Centrex
9 products to make them competitive with Centrex Plus but difficult to resell, and
10 (iv) makes repeated errors in administering its resale accounts that impose significant,
11 unreasonable and discriminatory operating costs on resellers.

12 **Q. WHAT DO YOU MEAN BY BUNDLING MONOPOLY AND COMPETITIVE
13 ELEMENTS FOR CENTREX PLUS SERVICE?"**

14 A. In spite of the Commission's order to the contrary, Qwest continues to bundle competitive
15 and monopoly elements in Centrex Plus service. The Centrex Plus competitive services
16 include features like three way calling and call waiting. The Centrex Plus monopoly
17 services include the network access channel ("NAC"), network access register ("NAR")
18 and dial tone. Qwest improperly bundles the monopoly dial tone service with
19 competitive features, and requires resellers to purchase dial tone and features even if the
20 reseller does not want to purchase any competitive features with Centrex Plus service.
21 (Qwest refuses to sell monopoly dial tone service with the NAC or the NAR, without any
22 competitive features.) Qwest's bundling practices for Centrex Plus service is a classic
23 illegal tying arrangement where, if you want to buy the monopolist's monopoly service,
24 you are required to pay for the monopolist's competitive service as well.

25 Qwest continues this illegal tying arrangement despite this Commission's order dated
26

1 February 20, 1997, which requires Qwest to unbundle dial tone from the Centrex feature
2 package and include it as part of the NAR. Twenty-third Supplemental Order, Docket
3 Nos. 911488, 911490 and 920252 (February 1997).

4
5 MetroNet has been unable to purchase the monopoly dial tone separately from the price
6 listed, competitive features since the date of the Commission's Twenty-Third
7 Supplemental Order. Qwest's tying arrangements have artificially inflated MetroNet's
8 cost of competing against Qwest, forcing MetroNet to pay for unneeded services from
9 Qwest (MetroNet's principal competitor.) This tying arrangement is an unreasonable
10 restriction and limitation on the resale of Qwest's services that discriminates against
11 resellers.

12 **Q. WHAT IS AN EXAMPLE OF PRICING BY QWEST THAT HAS A**
13 **DISPROPORTIONATE IMPACT ON RESELLERS?**

14 A. Until 1999, Qwest charged MetroNet a non-recurring charge of \$20.00 when MetroNet
15 converted an existing Qwest business line to MetroNet's Centrex Plus service. (Most
16 new MetroNet customers have existing Qwest business lines before they became a
17 MetroNet customer.) Before 1999, when MetroNet converted a new customer from
18 Qwest's business service to MetroNet's Centrex Plus service, Qwest charged a \$20.00
19 "change in grade of service" fee because converting the customer's existing business lines
20 to Centrex Plus service did not involve the installation of a new line. In 1999, Qwest
21 reinterpreted its tariff and started applying a \$48.00 installation charge that was normally
22 applied to the installation of new and additional lines. Qwest's re-interpretation of its
23 tariff represents a price increase of 140% which was not reviewed or approved by the
24 Commission. Qwest has not proven any cost-based factors that justify charging the same
25 non-recurring charge when converting existing lines to Centrex Plus when compared to
26 adding new lines to a Centrex Plus system. This reinterpretation of its tariff has a

1 disproportionate adverse effect on resellers, hindering their ability to compete effectively
2 in this market.

3 **Q. IS THERE ANOTHER EXAMPLE OF PRICING SCHEMES DESIGNED TO**
4 **RESTRICT RESALE COMPETITION?**

5 A. Another example of a pricing scheme that discriminates against resellers is Qwest's "per
6 location" pricing scheme for Centrex Plus features. Under this scheme, Qwest charges a
7 significantly lower price for Centrex Plus features if a customer has a large volume of
8 lines at a single location (versus a large volume of lines at multiple locations in a wire
9 center.) Resellers such as MetroNet usually sell their services to small and medium-sized
10 business customers, and are not eligible for the significant discounts offered by Qwest to
11 large customers at a single location. Qwest has not proven that its "per location" pricing
12 restrictions are cost justified. Since Qwest does not allow resellers to aggregate their
13 customers from multiple locations to get the discounts that Qwest offers, the "per
14 location" pricing restrictions are unreasonable and discriminatory restrictions on the
15 resale of Centrex Plus services.

16 **Q. HOW HAS QWEST ENGAGED IN CENTREX PRODUCT MANIPULATION TO**
17 **THE DETRIMENT OF RESELLERS?**

18 A. In recent years, Qwest has re-packaged its Centrex product line to compete with Centrex
19 Plus. Qwest has packaged Centrex 21, aimed at small businesses, and Centrex Prime,
20 aimed at larger businesses. Both products have been packaged with attributes that make
21 them attractive to retail customers but lack the attributes that would permit any
22 significant resale of these products. In addition, Qwest periodically offers promotional
23 discounts for these products, but fails to offer similar promotional discounts for Centrex
24 Plus.

25 Centrex 21 was packaged so the line and features (such as caller ID) are bundled into a
26 single package. Qwest steeply discounts rates for Centrex 21 in long-term contracts that

1 lock in customers for long periods of time and make it costly to switch to a reseller.

2 Finally, there are no volume discounts for Centrex 21 (except under long term, individual
3 case basis contracts), making it uneconomical for resellers to resell. When compared to
4 Centrex 21, Centrex Plus resellers are required to pay the full price for caller ID and do
5 not receive the discount that Centrex 21 customers receive.

6 Centrex Prime competes with Centrex Plus by bundling a multitude of features and ISDN
7 lines, which are not available as a package in Centrex Plus. In the past, MetroNet has
8 been unable to resell ISDN lines to its Centrex customers. Such lines would have to be
9 provided and billed separately by Qwest. It is unclear at this time whether Qwest has
10 changed its position on resale of ISDN lines. With data services as part of its package,
11 Centrex Prime is ultimately a more robust product than Centrex Plus. Centrex Prime is
12 sold on an individual case basis only, giving Qwest pricing flexibility and permitting
13 prices to remain unpublished and secret. At the same time, because there are no publicly
14 available rates, it is almost impossible for resellers to determine how to resell Centrex
15 Prime.

16
17 Using its ability to repackage Centrex products to make them unattractive for resale and
18 attractive for certain segments of the market, Qwest effectively discriminates against
19 resellers and has imposed unreasonable restrictions on resellers' ability to compete with
20 Qwest.

21 **Q. PLEASE PROVIDE AN EXAMPLE OF HOW QWEST ERRORS IN**
22 **ADMINISTERING ACCOUNTS OPERATE AS A RESTRICTION ON RESALE?**

23 A. Since March 1, 1995, Qwest has made significant errors on MetroNet's monthly bills for
24 Centrex Plus service. Qwest has repeatedly billed charges at incorrect rates and has
25 incorrectly interpreted its tariff in preparing its bills. Qwest has also billed MetroNet for
26 services that have been discontinued. When issuing credits for billing errors, Qwest has

1 failed to provide a description as to what the credit is for, making it very difficult for
2 MetroNet to tell which past billing errors have been rectified. This consistent and
3 repeated pattern of billing errors has caused MetroNet to expend a substantial amount of
4 resources each month to auditing bills, correcting billing errors and reconciling
5 unidentified credits with identified errors and writing off amounts billed or reconciled
6 late because they became uncollectible. Such costs affect MetroNet's profit margins and
7 competitive position. The billing errors have also damaged the reputation and goodwill
8 of MetroNet with its customers who were generally billed correctly by Qwest before they
9 switched their service to MetroNet. Because billing and provisioning errors can operate
10 to harm resale, Qwest has no incentive to make prompt corrections of its errors or to
11 develop better administrative procedures for billing. Thus, the improper administration
12 of resale accounts can be expected to continue to operate as a restriction on resale.

13
14 **Q. HOW HAS QWEST'S ACTIVITIES TO RESTRICT RESALE AFFECTED**
15 **METRONET?**

16 A. MetroNet resells Centrex Plus as a retail reseller. In recent years, MetroNet has lost 40
17 percent of its Centrex Plus lines to competing products of Qwest and much of this loss
18 can be attributed to Qwest's activities to restrict resale. The majority of those MetroNet
19 customers who have switched to Qwest products have switched to Centrex 21, which was
20 designed to take customers away from Centrex Plus resellers.

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

22 A. Yes it does.
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METRONET SERVICES CORPORATION/SEC.271

DOCKET NO. UT-003022

I hereby certify that I served the foregoing SUPPLEMENTAL RESPONSE TESTIMONY OF GREG BOGUS FOR METRONET SERVICES CORPORATION on:

Please see attached Service List

by the following indicated method or methods:

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