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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
KENNETH L. WILSON
FOR
METRONET SERVICES CORPORATION

OCTOBER 31, 2000

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

3 A. My name is Kenneth L. Wilson. I am a Senior Consultant and Technical Witness with
4 Boulder Telecommunications Consultants, LLC. My business address is 970 11th Street,
5 Boulder, Colorado, 80302. I am filing this testimony on behalf of MetroNet Services
6 Corporation (MetroNet).

7 **Q. PLEASE REVIEW YOUR EDUCATION AND RELEVANT WORK**
8 **EXPERIENCE.**

9 A. I received a BS in Electrical Engineering from Oklahoma State University in 1972. I
10 received an MS in Electrical Engineering from the University of Illinois in 1974. I
11 completed all the course work for a Ph.D. in Electrical Engineering at the University of
12 Illinois in 1975.

13 I am in my third year with Boulder Telecommunications Consultants, LLC as
14 Senior Consultant and Expert Witness. I have represented CLECs in regulatory and civil
15 forums in dozens of cases over the past three years, primarily in the Qwest 14 state
16 region. From 1995 through early 1998, I was the Business Management Director for
17 AT&T in Denver, managing one of the groups responsible for getting AT&T into the
18 local market in the Qwest states. My primary responsibility was lead negotiator for
19 AT&T with Qwest in the 14 Qwest states. I was also the senior technical manager in
20 Denver during that time, leading teams working on local network and interconnection
21 planning, OSS interface architectures, and the technical aspects of product delivery.

22 For the 15 years before coming to Denver, I worked at Bell Labs in New Jersey in
23 a variety of positions. From January 1994 through May 1995, I led a team at Bell Labs
24 investigating the various network infrastructure alternatives for entering the local
25 telecommunications market. From 1992 through 1993, I was one of the key team leaders
26 on a project to reduce AT&T's capital budget for network infrastructure. From 1986

1 through 1992, I led a Bell Labs group that was responsible for network performance
2 planning and assurance for AT&T Business Markets. From 1983 through 1985, I was a
3 member of the first AT&T Bell Labs cellular terminal design team. From 1980 through
4 1982, I was a member of a network architecture and network planning team at Bell Labs
5 for AT&T's long distance services.

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

7 A. I intend to address one aspect of how Qwest uses its market power to craft tariffs and
8 price lists that effectively segment the market so as to provide favorable prices and terms
9 to its strategic retail customers while making it difficult for resellers such as MetroNet to
10 be able to obtain the same volume discounts.

11 **Q. WHY IS THIS RELEVANT TO SECTION 271 OF THE**
12 **TELECOMMUNICATIONS ACT?**

13 A. Sections 251(c)(4) and 271(c)(2)(B)(xiv) of the Telecommunications Act require Qwest
14 to make its services available for resale free of any "unreasonable or discriminatory
15 conditions or limitations." This Commission and the FCC must reach a legal conclusion
16 on whether the issues I have raised amount to unreasonable or discriminatory as a matter
17 of law under Sections 251 and 271. I am not giving a legal opinion on that issue. What I
18 intend to show is that as a matter of fact, Qwest's tariffs and price lists discriminate
19 against resellers and restrict resale in a way that I believe is unreasonable based on how
20 those services are provided.

21 **Q. HOW DOES QWEST DISCRIMINATE AGAINST RESELLERS AND**
22 **RESTRICT RESALE IN AN UNREASONABLE AND DISCRIMINATORY**
23 **MANNER?**

24 A. Qwest discriminates against resellers and restricts resale in an unreasonable and
25 discriminatory manner through terms, conditions and pricing schemes that have a
26 disproportionate impact upon resellers when compared to Qwest's retail customers.

1 **Q. COULD YOU GIVE ME AN EXAMPLE?**

2 A. Yes. The principal vehicle that resellers use in Washington is a service called Centrex
3 Plus. This is a service that Qwest designed and developed to retain its favored customers,
4 such as the state of Washington and other large customers who might otherwise have
5 switched to PBXs. In order to make the service attractive to such large customers, Qwest
6 offers steep discounts for Centrex lines from regular business line and PBX trunk rates.
7 For example, in Washington the rate for a business line is over \$25. Rates for Centrex
8 lines can be less than half of that for large customers.

9 **Q. IS THERE ANYTHING WRONG WITH SUCH VOLUME DISCOUNTS?**

10 A. Not necessarily, if they are structured properly and do not discriminate against resellers.
11 It may well be beneficial to Qwest and ratepayers to keep large customers on the
12 network, rather than having them switch to other carriers or to alternative technologies
13 and abandoning lines that are already in place to serve such customers. It is important,
14 however, that such discounts be made available for resale on an equivalent basis.

15 **Q. WHY IS IT IMPORTANT FOR VOLUME DISCOUNTS TO BE MADE**
16 **AVAILABLE FOR RESALE ON NONDISCRIMINATORY TERMS?**

17 A. One reason is to provide an additional incentive to ensure that Qwest does not cross-
18 subsidize services it provides to its favored customers. If Qwest is forced to offer volume
19 discounted services to resellers, then presumably it would price its services in a way that
20 ensures that it can make money on the services regardless of who buys them, a reseller or
21 a large Qwest retail customer. In other words, it will ensure that the volume discounts it
22 offers bears some rational relationship to the cost savings that Qwest realizes by
23 providing a large volume of services.

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1 **Q. DOESN'T CENTREX PLUS DO THIS?**

2 A. No. Pursuant to the Commission's orders in Docket UT-950200, Qwest offers the same
3 discount on its lines (called NACs) to resellers that it offers to its retail customers.¹ With
4 Centrex features, however, which this Commission has competitively classified, Qwest
5 has created the artifice of a "per location" pricing scheme. What this means is that Qwest
6 charges a different price for vertical switching features such as conference calling and
7 speed dialing if a customer has a large number of lines at a single location versus a large
8 number of lines at multiple locations. The price difference is dramatic. For a customer
9 with fewer than 20 lines at a location, Qwest charges \$6.68 for features per month. For a
10 customer with over 50 lines at a single location, the customer pays only \$1.17 for the
11 same vertical switching features.²

12 **Q. DOES THIS PRICING SCHEME BEAR A RATIONAL RELATIONSHIP TO**
13 **COST?**

14 A. No. In fact it bears **no** relation to costs. Vertical switching features reside within the
15 central office switch. Within any given switch, the costs to provide vertical switching
16 features to any given line are exactly the same.³ Indeed, if a switch technician were
17 standing next to the line cards at a switch where a 100 Centrex loops were terminated, he
18 would have no way of knowing, without checking Qwest's databases, whether those line
19 cards serve a single location or 100 different geographically disbursed locations. It is
20 simply impossible based on current network architecture for switching feature costs to
21 vary based on the number of lines at a location.

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24 ¹ Although I understand that Qwest originally sought to restrict volume discounts on a location specific basis.

25 ² Based on Qwest's Washington Price List, Section 9.1.16, Original Sheet 36, Effective August 30, 2000.

26 ³ Indeed, depending on how one looks at it, since the features are resident in every switch they are arguably a zero cost element.

1 **Q. IS THERE ANY JUSTIFICATION FOR THE QWEST PRICING SCHEME IN**
2 **THE WAY SWITCHES PROVIDE CENTREX FEATURES?**

3 A. No. The switch provides features on a per-loop basis, irrespective of where the loop
4 terminates. The switch does not distinguish between loops based on geography.
5 Particular switch features can be assigned to any loop or group of loops. The switch has
6 no way of knowing the geographic location of the other end of the loop. Feature
7 assignment is based on phone number, not on loop location. When it comes to the
8 recurring cost of providing Centrex features to 100 loops, it makes no difference if 100
9 loops terminate at one location or 100 different locations.

10 **Q. USING YOUR EXAMPLE, PLEASE EXPLAIN HOW THIS KIND OF PRICING**
11 **SCHEME DISCRIMINATES AGAINST RESELLERS.**

12 A. Resellers by nature aggregate geographically disbursed customers for purposes of
13 obtaining volume discounts that are offered by facilities-based carriers. The FCC's local
14 competition order requires ILECs to permit CLECs to aggregate their customers for
15 purposes of volume discounts.. In the Matter of Implementation of the Local
16 Competition Provisions in the Telecommunications Act of 1996, CC Dockets No. 96-98
17 and 95-185, First Report and Order, 11 F.C.C.R. 15499, 15971 (1996). The practical
18 effect of the location based pricing is to significantly hinder resellers' ability to obtain the
19 highest level of discounts because their customers are geographically dispersed, not
20 lumped altogether in a single location. In my view, this is discriminatory against
21 resellers, as a practical matter, because it costs Qwest no more to provide vertical
22 switching features to resellers' diverse locations than it does to provide the features to
23 Qwest's favored large customers.

24 **Q. DOES QWEST'S SGAT ADDRESS THIS ISSUE?**

25 A. Yes. The SGAT specifically prohibits aggregation of reseller customer locations for
26 purposes of Centrex volume discounts. SGAT § 6.2.2.9.1.

1 **Q. HOW DO YOU BELIEVE THE COMMISSION SHOULD ADDRESS THIS**
2 **ISSUE?**

3 A. I believe the Commission should not approve Qwest's SGAT or its Section 271 petition
4 until Qwest allows resellers to aggregate diverse customer locations for purposes of
5 obtaining volume discounts. I would allow a qualified and limited exception to this
6 condition in only one circumstance. The exception would be if Qwest can demonstrate
7 with verifiable cost studies that the cost to serve different locations varies by the number
8 of lines served at the location. Three important qualifications would be, first, that the
9 cost studies need to be reviewed in a public docket (subject to notice and hearing
10 requirements) in which CLECs can have access to the cost studies, under protective order
11 if necessary. Second, if an exception is allowed to the no per-location pricing rule for
12 resellers it would have to be in proportion to the demonstrated cost difference. For
13 example, a 10 percent cost difference could not support a 100 percent price difference.
14 Third, even if Qwest could demonstrate location-based cost differences, it may not charge
15 resellers different prices unless the retail tariff or price list requires location-based
16 pricing.

17 **Q. IS YOUR RECOMMENDATION APPROPRIATE FOR PRICE-LISTED**
18 **SERVICES AND IF SO, WHY?**

19 A. Yes it is. In this docket, MetroNet is not asking the Commission to change any prices—
20 whether tariffed or price-listed—at all. Sections 251 and 271 of the Telecommunications
21 Act apply to all telecommunications services ILECs offer at retail, regardless of how
22 states may or may not regulate the prices for such services. If the Commission
23 determines that Qwest's pricing schemes constitute unreasonable or discriminatory
24 conditions or limitations on resale, then it should recommend denial of Qwest's 271
25 application or conditional approval as I have outlined above. Qwest is then free to
26 maintain its pricing scheme or change it in order to obtain Section 271 relief if it wishes.

1 The fact that the Act establishes incentives for ILECs to eliminate discrimination and
2 restrictions against resale and that state commissions play a part in determining if they
3 have done so in no way implies that this Commission would be exercising price control
4 over services classified as “competitive” under state law.

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

6 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
KENNETH L. WILSON FOR METRONET SERVICES CORPORATION on:

Please see attached Service List

by the following indicated method or methods:

by **faxing** full, true, and correct copies thereof to the attorneys at the fax numbers shown above, which are the last-known fax numbers for the attorneys' offices, on the date set forth below. The receiving fax machines were operating at the time of service and the transmissions were properly completed, according to the attached confirmation reports.

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DATED this 31st day of October, 2000.

Carol Munnerlyn

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