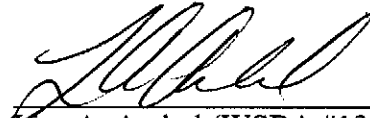


- 3 Beginning on page 19, with the question, “Have you read Mr. Linse’s rebuttal testimony?”, Mr. Lesser responds to Mr. Linse’s rebuttal testimony. This continues through page 21, with the question, “Have you read Ms. Albersheim’s rebuttal testimony?” Mr. Lesser then proceeds to respond to Ms. Albersheim’s rebuttal testimony through page 23 where his testimony ends.
- 4 Per the scheduling order (Order 05) for this docket, both parties were to file their rebuttal testimony on June 17, 2010. When parties file electronically, such filings are due by 3:00 p.m.¹ Qwest made a timely filing at 2:39, 21 minutes before the deadline. NCC completely missed the deadline, and filed electronically at 4:40 p.m.
- 5 If it were simply a matter of a late filing by an hour and forty minutes, Qwest would not protest. But a late filing, where the lateness was clearly caused by NCC’s attempt to obtain an unfair advantage in the case by taking extra time to read and respond to Qwest’s testimony – essentially filing surrebuttal which was not permitted by the schedule – is highly objectionable. It was not appropriate for North County to wait for receipt of Qwest’s rebuttal filing, add a response to Qwest’s testimony, and subsequently file its own rebuttal testimony late by approximately the amount of time it took to draft five pages of surrebuttal. Qwest therefore moves that responsive testimony of North County witness Todd Lesser be stricken in its entirety, or, in the alternative, at a minimum from page 19, line 8 through page 23, line 7.

¹ According to WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 pm on the filing deadline and the Commission receives the original and required number of copies by 12:00 pm on the following business day.

Dated this 21st day of June, 2010

QWEST



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