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September 3, 2003

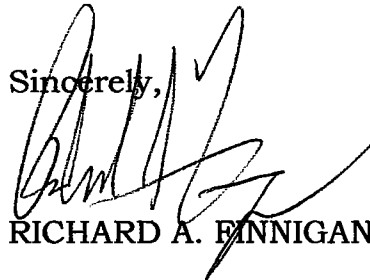
Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket No. UT-033011

Dear Ms. Washburn:

Enclosed are the original and nineteen copies of SBC Telecom, Inc.'s Answer to the Washington Utilities and Transportation Commission's Amended Complaint and Notice of Prehearing Conference.

Sincerely,



RICHARD A. FINNIGAN

RAF/km
Enclosures

cc: Service List
Steve Strickland

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COMMISSION

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
)
Complainant,)
)
v.)
)
ADVANCED TELECOM GROUP, INC.;)
ALLEGIANCE TELECOM, INC.; AT&T)
CORP., COVAD COMMUNICATIONS)
COMPANY; ELECTRIC LIGHTWAVE,)
INC.; ESCHELON TELECOM, INC. f/k/a)
ADVANCED TELECOMMUNICATIONS,)
INC.; FAIRPOINT COMMUNICATIONS)
SOLUTIONS, INC.; GLOBAL CROSSING)
LOCAL SERVICES, INC.; INTEGRA)
TELECOM, INC.; MCI WORLDCOM, INC.;)
McLEODUSA, INC.; SBC TELECOM, INC.;)
QWEST CORPORATION; XO)
COMMUNICATIONS, INC. f/k/a NEXTLINK)
COMMUNICATIONS, INC.,)
)
Respondents.)
)

DOCKET NO. UT-033011

SBC TELECOM, INC.'S ANSWER
TO THE WASHINGTON UTILITIES
AND TRANSPORTATION
COMMISSION'S AMENDED
COMPLAINT AND NOTICE OF
PREHEARING CONFERENCE

COMES NOW Defendant, SBC Telecom, Inc. ("SBC"), by and through The Law Office of
Richard A. Finnigan, and submits this Answer to the Washington Utilities and Transportation

SBC'S ANSWER AND
AFFIRMATIVE DEFENSES TO
WUTC'S AMENDED COMPLAINT - 1

Law Office of
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(360) 956-7001

1 Commission's ("WUTC" or "Commission") Amended Complaint and Notice of Prehearing
2 Conference (hereafter "Complaint"). Defendant admits, denies, answers and alleges as follows:

3
4 **ANSWER**

- 5 1. Paragraph 1 states matters which need not be admitted or denied.
- 6 2. SBC enters a general denial of the allegations contained in Paragraphs 2 through 9. SBC
7 asserts that the documents cited in Paragraphs 2 through 9 speak for themselves, and
8 therefore need not be admitted or denied. SBC further asserts that the allegations in
9 Paragraphs 2 through 9 contain misstatements of law. SBC also alleges that Paragraphs 2
10 through 9 contain statements about which SBC is without knowledge sufficient to form a
11 belief as to the truth or accuracy of the allegations, and SBC therefore denies these
12 allegations.
- 13 3. SBC admits the allegations of Paragraph 10.
- 14 4. With respect to Paragraph 11, SBC admits that it is a telecommunications company subject,
15 in certain respects, to regulation by the WUTC. SBC asserts that RCW 80.01.040(3) speaks
16 for itself and need not be admitted or denied. Further, SBC is without knowledge sufficient
17 to form a belief as to the truth or accuracy of the remaining allegations of Paragraph 11, and
18 SBC therefore denies these allegations.
- 19 5. SBC denies that the WUTC has jurisdiction over the SBC contract at issue and therefore
20 denies that the WUTC has jurisdiction over this dispute as alleged in Paragraph 12.
- 21 6. With respect to Paragraph 13, SBC admits that it is a telecommunications company
22 authorized to provide telecommunications service in the state of Washington. SBC is
23 without knowledge sufficient to form a belief as to the truth or accuracy of the remaining
24 allegations of Paragraph 13, and SBC therefore denies these allegations.

- 1 7. With respect to Paragraph 14, SBC admits that it is subject, in certain respects, to regulation
2 by the WUTC under Title 80 RCW. SBC denies any remaining allegations of Paragraph 14.
- 3 8. SBC is without knowledge sufficient to form a belief as to the truth or accuracy of the
4 allegations of Paragraph 15 as they relate to the other parties designated by the Commission
5 as Qwest and the CLEC Respondents, and SBC therefore denies these allegations. Further,
6 SBC denies that the agreement at issue as identified in the Complaint between SBC and
7 Qwest was required to be filed with the Commission under 47 U.S.C. § 252.
- 8 9. With respect to Paragraph 16, SBC asserts that 47 U.S.C. § 252(a)(1) and (e) and RCW
9 80.36.150 speak for themselves and need not be admitted or denied. SBC denies that it was
10 under any obligation to file the agreement listed in Exhibit A with the WUTC.
- 11 10. The allegations of Paragraph 17 do not pertain to SBC, and SBC is without knowledge
12 sufficient to form a belief as to the truth or accuracy of the allegations of Paragraph 17, and
13 SBC therefore denies these allegations.
- 14 11. SBC re-admits and re-denies as delineated above the allegations of Paragraphs 2 through 17
15 of the Complaint re-alleged by the WUTC in Paragraph 18.
- 16 12. With respect to Paragraph 19, SBC asserts that 47 U.S.C. § 252(a) speaks for itself and need
17 not be admitted or denied.
- 18 13. SBC denies the allegations of Paragraph 20 to the extent those allegations pertain to SBC.
19 Further, SBC states that the obligation, if any existed, to file the agreement in question
20 between SBC and Qwest with the Commission was the obligation of Qwest under 47 U.S.C.
21 § 252(b) and not the obligation of SBC.
- 22 14. SBC re-admits and re-denies as delineated above the allegations of Paragraphs 2 through 17
23 of the Complaint re-alleged by the WUTC in Paragraph 21.
- 24
25

- 1 15. With respect to Paragraph 22, SBC asserts that 47 U.S.C. § 252(e) speaks for itself and need
2 not be admitted or denied.
- 3 16. SBC denies the allegations of Paragraph 23 to the extent those allegations pertain to SBC.
- 4 17. Paragraphs 24 through 26 are not applicable to SBC, and SBC is without knowledge
5 sufficient to form a belief as to the truth or accuracy of the allegations of Paragraphs 24
6 through 26, and SBC therefore denies these allegations.
- 7 18. SBC re-admits and re-denies as delineated above the allegations of Paragraphs 2 through 17
8 of the Complaint re-alleged by the WUTC in Paragraph 27.
- 9 19. With respect to Paragraph 28, SBC asserts that RCW 80.36.150 speaks for itself and need
10 not be admitted or denied.
- 11 20. SBC denies the allegations of Paragraph 29 to the extent those allegations pertain to SBC.
- 12 21. Paragraph 30 contains allegations that are not applicable to SBC, and SBC is without
13 knowledge sufficient to form a belief as to the truth or accuracy of the allegations of
14 Paragraph 30, and SBC therefore denies these allegations.
- 15 22. With respect to Paragraph 31, SBC asserts that RCW 80.04.380 and RCW 80.36.150 speak
16 for themselves and need not be admitted or denied.
- 17 23. SBC re-admits and re-denies as delineated above the allegations of Paragraphs 2 through 17
18 of the Complaint re-alleged by the WUTC in Paragraph 32.
- 19 24. Paragraphs 33 through 36 contain allegations that are not applicable to SBC, and SBC is
20 without knowledge sufficient to form a belief as to the truth or accuracy of the allegations of
21 Paragraphs 33 through 36, and SBC therefore denies these allegations.
- 22 25. SBC re-admits and re-denies as delineated above the allegations of Paragraphs 2 through 17
23 of the Complaint re-alleged by the WUTC in Paragraph 37.
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- 1 26. Paragraphs 38 through 40 contain allegations that are not applicable to SBC, and SBC is
2 without knowledge sufficient to form a belief as to the truth or accuracy of the allegations of
3 Paragraphs 38 through 40, and SBC therefore denies these allegations.
- 4 27. SBC re-admits and re-denies as delineated above the allegations of Paragraphs 2 through 17
5 of the Complaint re-alleged by the WUTC in Paragraph 41.
- 6 28. Paragraphs 42 through 45 contain allegations that are not applicable to SBC, and SBC is
7 without knowledge sufficient to form a belief as to the truth or accuracy of the allegations of
8 Paragraphs 42 through 45, and SBC therefore denies these allegations.
- 9 29. Paragraphs 46 through 56 contain statements of procedure that need not be admitted or
10 denied.
- 11 30. To the extent not admitted above, SBC specifically denies all other allegations in Paragraphs
12 2 through 56 of the Complaint.

13
14 **AFFIRMATIVE DEFENSES**


15 BY WAY OF FURTHER ANSWER, and by way of affirmative defenses, SBC hereby
16 alleges the WUTC's claims should be dismissed, in whole or in part, based on the following
17 affirmative defenses:

- 18
- 19 1. The Complaint fails to state a claim upon which relief can be granted.
 - 20 2. The Commission lacks subject matter jurisdiction over the agreement in question as
21 identified in the Complaint.
 - 22 3. Any obligation to file the agreement in question rested and still rests exclusively with Qwest
23 as the incumbent local exchange carrier and not with SBC.
- 24
25

1 **PRAYER**

2 WHEREFORE, SBC prays that this matter be dismissed as to any allegations against SBC.

3 Dated this 3rd day of September, 2003.

4
5 
6 _____
7 RICHARD A. FINNIGAN, WSBA #6443
8 Attorney for Respondent, SBC Telecom, Inc.