

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition for
Arbitration of an Interconnection
Agreement Between

Docket UT-093035

NORTH COUNTY
COMMUNICATIONS
CORPORATION OF WASHINGTON,

with

QWEST CORPORATION

Pursuant to 47 U.S.C. Section 252(b).

REVISED JULY 9, 2010

DIRECT TESTIMONY OF TODD LESSER

DATE: MAY 19, 2010

DIRECT TESTIMONY OF TODD LESSER

Q: Please state your name and business address.

A: My name is Todd Lesser. My business address is 3802 Rosecrans Street, No. 485, San Diego, California 92110. My telephone number is (619) 364-4750.

Q: Please describe your qualifications and experience as they relate to this proceeding.

A: I am the President of North County Communications Corporation (hereinafter "NCC"), and I have held that position since 1995. NCC is a privately held, facilities based competitive local exchange carrier ("CLEC") in San Diego, California. North County entered the Washington market in 1997. I have substantial experience in telecommunications, including obtaining local interconnection with a number of Bell operating companies including Qwest, AT&T, and Verizon.

Q. Have you ever testified before?

A. Yes, I have testified as a technical expert before the Illinois Commerce Commission, West Virginia Public Utilities Commission, California Public Utilities Commission, and the Federal Trade Commission.

Q: Please describe the type of interconnection NCC has obtained to deploy its local telecommunication services.

A: In deploying local telecommunication services to its customers, NCC has established interconnection with Qwest, AT&T and Verizon. As part of my responsibility at NCC, I have knowledge of the interconnection practices and

procedures of Qwest, AT&T and Verizon.

Q: Please describe your interconnection experiences with the regional Bell operating companies other than Verizon, to date.

A: I have been directly involved in establishing competitive local exchange carrier interconnection for NCC in the following locals with the following regional Bell operating companies: Pacific Bell (AT&T) in: San Diego, CA, Los Angeles, CA, Sacramento, CA, and San Francisco, CA; Qwest in: Portland, OR, Vancouver, WA, Phoenix, AR, Tucson, AR; and Verizon in: Charleston, WV and DeKalb, IL.

Q. What types of switches have you installed and maintained?

A. I have installed and maintained Lucent, Northern Telecom, and Ericsson central offices.

Q. Has any other carrier other than Qwest attempted to cancel an interconnection agreement?

A. No. We have had nearly identical agreements with Verizon and AT&T the whole time.

Q. Do you interconnect with Verizon and AT&T using MF signaling.

A. Yes.

Q. Does Verizon and AT&T have the ability to track the minutes of use?

A. Yes.

Q. Qwest asserts that they don't have the ability to track the usage. Is this correct?

A. No. It is a complete fabrication. AT&T and Verizon have the exact same central offices. What Qwest is saying simply doesn't make sense. If they were unable to track MF usage, that would mean that they were never able to track minutes when their entire network was MF. So for decades they were billing people without having any ability to track usage? Importantly, prior to Qwest's request to enter into a new agreement, we never had a single billing issue. We've gone 13 years without one issue with billing, but now that they want to force a new, untested, agreement upon us all of the sudden there are billing issues.

Q. Does your current agreement with Qwest allow MF signaling?

A. Yes. We've done it that way for 13 years.

Q. Does your network in Oregon, Washington, and Arizona support SS7?

A. No. We designed our interconnection and entire network based upon what was allowed in the interconnection agreement.

Q. What is the lifespan of your central offices?

A. The lifespan in the industry is generally 20 to 30 years for a central office.

Q. Qwest would like for you to force you to convert to SS7. What would this entail?

A. We would be required to completely scrap our entire network well in advance of its useful lifespan. This is completely unreasonable and prohibitively expensive.

Q. Did you negotiate your interconnection agreement with Qwest?

A. Yes.

Q. Does it have a mandatory binding arbitration clause in it?

A. No.

Q. Have you ever negotiated an agreement with a binding arbitration clause?

A. Yes.

Q. Qwest feels that binding arbitration is necessary in this case even though the contract doesn't say it. Do you agree with this statement?

A. No. Our agreement has a change of law provision. We have amended the agreement in the past based upon this provision. I designed my whole network and business plan on this interconnection agreement. I expected the agreement to remain in affect and be modified as necessary.

Q. Are you allowed to block Qwest's traffic?

A. No. Due to the ubiquity of the telephone network, all carriers must pass traffic. This is a requirement of being a carrier.

Q. So no matter what agreement you have, once you become a carrier you are forced to continue to pass the traffic?

A. Yes. This is why the binding current agreement allows for us to negotiate new terms but doesn't require us to completely change the way we are doing business.

Q. Did Qwest tell you why they wanted a new interconnection agreement?

A. Yes. They said they were updating the terms.

Q. Did you question them on this?

A. Yes, it didn't make sense to me. We've been operating under our agreement for 13 years without any problems. I'd designed my entire network based on the terms of our agreement. It's obvious that their new agreement contains significant substantive changes which benefit Qwest and burden North County. If that were not the case Qwest obviously would not be trying to replace our long-standing agreement with this new untested agreement.

Q. Did Qwest initially disclose any other changes in the agreement?

A. No. I asked them to tell me all the material differences between the current agreement that we have had for 13 years and the new proposed one they wanted to use and they refused?

Q. Would they tell you what was wrong with the existing agreement?

A. No. I wanted to work off our agreement but they refused.

Q. Why do you think Qwest is doing this?

A. I simply don't know. They are not telling me the whole story. Our agreement has passed the test of time. They have refused to do so. I assume the obvious: that the new agreement is very long and very dense and likely contains significant changes that cannot be easily identified. They want to force this untested, and complex agreement upon North County and reap greater benefits therefrom.

Q: Though Qwest has refused to provide you with any indication of the substantive changes that they made, what specific issues do you know exist with the proposed ICA?

A: As mentioned, the proposed ICA illegally attempts to force NCC to switch to

Formatted: Font: Bold

Formatted: Font: Bold

SS7. It also places an arbitrary cap on the number of minutes that NCC can bill Qwest (initially 10,000 now 240,000). Further, its formula for the relative use factor (RUF) that has no bearing on actual relative use. Finally, it contains a definition of VNXX which is unclear and which is not mandated by any FCC rule or other legal obligation.

Formatted: Font: Bold

Q: So how would you change these areas?

A: I would revert back to the original language used in the current ICA which did not penalize or otherwise limit NCC from using MF technology, did not place a cap on the number of billable minutes, contained a RUF based on actual usage, and did not ban VNXX traffic.

Q. How has this arbitration affected NCC?

A. It is hurting us financially. We are a small company. We cannot afford to arbitrate a new agreement, and we cannot afford to replace our entire network to suit Qwest's recent whims. We have an agreement that has worked for 13 years, which is the same as the agreements in place with AT&T and Verizon. Those companies use the same equipment as Qwest. There is absolutely no reason to replace or modify the existing agreement generally, or the signaling and billing requirements specifically.

