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**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of QWEST CORPORATION  
Regarding the Sale and Transfer of Qwest Dex to Dex Holdings, LLC, a non-affiliate

Docket No. UT-021120

DEX HOLDINGS' RESPONSE IN PARTIAL OPPOSITION TO STAFF'S MOTION TO REMOVE CONFIDENTIALITY DESIGNATIONS FROM TESTIMONY OF LEE L. SELWYN AND GLENN BLACKMON

In its motion filed April 10, 2003, ("Motion"), Staff requested that confidential or highly confidential designations be removed from nearly one hundred portions of Dr. Selwyn's testimony.<sup>1</sup> Dex Holdings, LLC, ("Dex"), takes no position on the majority of the excerpts in question.<sup>2</sup> Dex opposes, however, a non-confidential redesignation on nine items because of their commercial and financial value to Dex's future operations as well as the resulting harm that Dex would incur if the information were publicly disclosed and available to competitors.

Dex is willing to accept the demotion of certain items from highly confidential to confidential or reduce the amount of information designated highly confidential or confidential

<sup>1</sup> Qwest and Staff agreed on the removal of confidential designations from Dr. Blackmon's testimony. *See* Motion at 1. This response reflects the disagreement over confidential and highly confidential designations in Dr. Selwyn's testimony.

<sup>2</sup> It is Dex's understanding that Staff does not seek removal of confidential or highly confidential designations on the underlying documents used by Drs. Selwyn or Blackmon in their testimony or the exhibits attached to their respective testimony. *See* Motion at 7. Dex would oppose any attempt by Staff to do so.

1 as noted below. The page, footnote, and line numbers correspond to those listed in Staff's  
2 attachment to its Motion.

- 3 1. Page 29, FN 37. RETAIN confidential designation on entire footnote,  
4 [financial projections].
- 5 2. Page 30, lines 1-12. REDUCE confidential designation to only lines 5-12,  
6 [growth rate projections].
- 7 3. Page 30, FN 39. RETAIN confidential designation on entire footnote,  
8 [growth rate projections].
- 9 4. Page 50, lines 13-20; Page 51, lines 1-2. DEMOTE highly confidential  
10 designation to confidential and REDUCE confidential designation to only  
11 Page 50, lines 18-20, [growth rate projections].
- 12 5. Page 51, lines 4-7. DEMOTE highly confidential designation to confidential  
13 on lines 4-7, [growth strategies].
- 14 6. Page 51, lines 7-12. DEMOTE highly confidential designation to confidential  
15 on lines 7-12, [growth strategies].
- 16 7. Page 93, lines 12-17; Page 94, lines 1-2. DEMOTE highly confidential  
17 designation to confidential on Page 93, lines 12-17, and Page 94, lines 1-2,  
18 [customer retention studies].
- 19 8. Page 95, lines 15-16. RETAIN confidential designation on lines 15-16,  
20 [financial projections/growth strategies].
- 21 9. Page 95, line 19. RETAIN confidential designation on line 19, [financial  
22 projections/growth strategies].

23 Dex agrees with Staff that public policy dictates that the state government should,  
24 to the greatest extent possible, conduct its business in the open.<sup>3</sup> This open policy cannot,  
25 however, be used to provide Dex's competitors with highly sensitive financial, marketing, and  
26 strategic trade secret information to the significant detriment of Dex.<sup>4</sup> That is what would  
happen if the Commission grants Staff's Motion in its entirety.

<sup>3</sup> RCW 42.17.010; Motion at 2.

<sup>4</sup> RCW 80.04.095; Protective Order; First Supplemental Order Amending Protective Order;  
Third Supplemental Order Amending Protective Order.

1           The items listed above relate specifically to Dex's directory publishing financial  
2 projections, growth rate estimates, growth strategies, and customer retention studies. This is  
3 exactly the type of information that would cause significant harm to Dex if it were publicly  
4 disclosed and available to competitors. It is the same type of information that the parties  
5 understood would be provided by Qwest or Dex under confidential or highly confidential  
6 designations,<sup>5</sup> which even Staff recognizes is protected from full disclosure under Washington  
7 law and the protective orders issued in this docket.<sup>6</sup>

8           Full disclosure of the items listed above would inflict significant harm on Dex.  
9 The Dex financial projections, growth rate estimates, and growth strategies, if disclosed, would  
10 provide competitors with invaluable information to help them determine if, when, and in what  
11 markets they should develop competitive operations. The information could also provide  
12 competitors with how much investment they may need to compete with specific segments of  
13 Dex's directory publishing business and the timeframe in which to pursue such investments.  
14 Access to Dex's customer retention studies would give competitors sensitive and confidential  
15 information that could help them poach or steal Dex customers using information that was  
16 developed confidentially for Dex's internal use.

17           Dex knows that competition against its directory publishing business is destined  
18 to become more heated in the future. Dex is willing to meet such competition with a quality  
19 product at a competitive price. The Commission should not, however, give Dex's competitors  
20 the artificial competitive advantage that would result if it were to grant these competitors  
21 unfettered access to Dex's valuable and confidential financial, marketing, and strategic trade  
22 secret information through the regulatory process.

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25 <sup>5</sup> Protective Order; First Supplemental Order Amending Protective Order; Third Supplemental  
26 Order Amending Protective Order.

<sup>6</sup> See Motion at 3-4.

1 Dex respectfully requests that the Commission reject Staff's Motion, at a  
2 minimum, regarding the nine items listed above and continue the confidential or highly  
3 confidential designations as noted.

4 DATED this 23<sup>rd</sup> day of April, 2003.

5 MILLER NASH LLP

6 

7 Brooks E. Harlow  
8 WSB No. 11843  
9 William R. Connors  
10 WSB No. 23232

11 Attorneys for Intervenor  
12 Dex Holdings, LLC

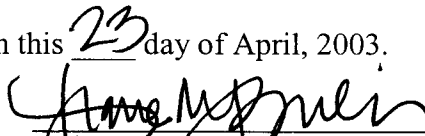
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CERTIFICATE OF SERVICE - Docket UT-021120

I hereby certify that a true and correct copy of the foregoing was sent by facsimile, e-mail, and first-class mail addressed to the following:

<u>Non-Confidential</u>	<u>Confidential</u>	<u>Highly Confidential</u>
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Dated at Seattle, Washington this 23 day of April, 2003.

  
Diane M. Bulis