

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In The Matter Of
TEL WEST COMMUNICATIONS, LLC
Petition For Enforcement Of Its Interconnection
Agreement With Qwest Communications Pursuant
To WAC 480-09-530

Docket No. UT-013097

**SUPPLEMENTAL TESTIMONY OF
JEFF SWICKARD
FOR
TEL WEST COMMUNICATIONS, LLC
REGARDING OS/DA AND BILLING DISPUTE CLAIMS**

February 15, 2002

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

A. I am Jeff Swickard, President of Tel West Communications, LLC ("Tel West"). I previously submitted direct testimony in this docket on OS/DA and billing dispute claims on February 8, 2002.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I will respond to Qwest's Supplemental Response to Tel West's Data Request No. 11 ("Qwest Response") provided to Tel West on February 12, 2002. I have attached the first page of that response as Exhibit JS-ST-A.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. I will explain that Qwest is improperly charging Tel West for collect calls even though Tel West has asked Qwest to block them. Indeed, Tel West has taken every reasonable action possible to prevent these calls, including informing its customers not to accept them. Qwest has subverted these efforts by using its monopoly position to cram these charges onto Tel West, in violation of the interconnection agreement between the parties. I am raising this issue in my supplemental testimony in response to a document in the Qwest Response (the "Billing Email") containing Qwest's misleading position on this issue, which is included with Exhibit JS-ST-A. Also, I wanted to provide some background regarding these charges, which are a large part of the disputed bills identified in the Qwest Response.

Q. DESCRIBE THE NATURE OF THE CALLS UNDER DISPUTE.

A. Most are collect calls originating from correctional facilities. Tel West's end user customers accept these incoming calls, which then appear on Tel West's bill from Qwest.

1 Q. DOES QWEST DEMAND PAYMENT FROM TEL WEST FOR THESE COLLECT
2 CALLS?

3 A. Yes. However, Qwest is responsible for these calls, not Tel West.

4 Q. WHY SHOULD TEL WEST NOT HAVE TO PAY THESE CHARGES?

5 A. Tel West has done everything in its power to avoid charges for these calls. For example,
6 Tel West orders Billed Number Screening Service ("BNS") from Qwest pursuant to the
7 interconnection agreement between the parties. Tel West also informs its customers that
8 they may not accept collect calls. At this point, only Qwest can prevent them.
9

10 Q. WHAT IS THE FUNCTION OF BILLED NUMBER SCREENING SERVICE?

11 A. BNS prohibits collect and/or third number billed calls from being charged to BNS
12 equipped numbers, according to Qwest's Tariff WN U-40, § 10.4.3.A.

13 Q. DOES BNS FUNCTION CORRECTLY?

14 A. Not always. Collect calls that slip past BNS are a major source of Tel West's billing
15 disputes with Qwest.
16

17 Q. WHY IS BNS NOT PREVENTING THESE CALLS?

18
19 Tel West believes that BNS does not work because Qwest does not properly execute a
20 "Live Information Data Base dip" ("LIDB dip") for these calls. A LIDB dip is a
21 computer inquiry that reveals what restrictions and blocking are on the line, which
22 includes BNS. Operator service providers ("OSP") must perform a LIDB dip for all
23 collect calls to determine whether they may assess charges on the line to be billed. To the
24 best of Tel West's knowledge, Qwest's OSP division, which is separate from Qwest's
25 regulated local exchange entity, is the OSP for all collect calls resulting in the disputed
26 OS charges. So, Qwest's OSP division had a duty to perform a LIDB dip before charging

1 Tel West's lines for these calls. Had it done so, it would have learned that Tel West
2 ordered BNS for all its lines. Qwest apparently does not protect itself by performing a
3 LIDB dip in some circumstances.

4 Q. HAS QWEST EXPLAINED WHY IT BELIEVES TEL WEST IS RESPONSIBLE FOR
5 THESE COLLECT CALLS?
6

7 A. Yes, in the Billing Email. The Billing Email, which was included in the Qwest Response
8 on Feb. 13, is an email from Sheryl Hild at Qwest to me dated April 16th, 2001. In that
9 email, Qwest attempts to justify its efforts to bill Tel West for collect calls originating
10 from correctional facilities and accepted by Tel West customers.

11 Q. WHAT DOES THE BILLING EMAIL SAY?

12 A. The Billing Email provides a convoluted explanation as to why Tel West must pay these
13 charges. **[Confidential Insert No. 1]** Qwest also believes that the tariff requires Tel
14 West to pay these charges.

15 There are many problems with Qwest's position. First, Qwest's OSP division is the OSP
16 for these calls, so it has the duty to take reasonable steps to ensure that it may bill a call to
17 a particular line. This includes a LIDB dip using the most current information available,
18 which it apparently failed to do. **[Confidential Insert No. 2]** possibly to limit costs.
19 Qwest's OSP has chosen this unreliable method of screening, so it should bear the costs
20 of its failure.
21

22 Second, the tariff does not state that Tel West is responsible for these calls. It only states
23 that the customer remains responsible for their calls even if BNS is on the line. This is
24 appropriate because Qwest's OSP calls the end users and verifies that it can bill them. In
25 contrast, Tel West has never accepted the charges and instead done everything possible to
26

1 avoid them. So, Qwest should recover these charges from the end user customers, not
2 Tel West.

3 Third, Tel West does not bear responsibility for updating correctional facilities' databases
4 to protect itself from Qwest's calls. Qwest, as both the OSP and the operator of the CPE
5 at the facilities, bears this responsibility, if it exists. The only reasonable approach is for
6 Qwest's OSP to perform a LIDB dip like all other OSPs.
7

8 Q. YOU INDICATED THAT TEL WEST INFORMS CUSTOMERS THAT THEY MAY
9 NOT ACCEPT COLLECT CALLS. PLEASE DESCRIBE HOW TEL WEST DOES
10 THIS.

11 A. If a customer requests service in person, Tel West provides them with a pamphlet
12 explaining the terms and conditions of service and indicating that the customer may not
13 access OS/DA or accept collect calls. If the customer requests service over the telephone,
14 Tel West plays an audio message for the customer that provides the same information.

15 Q. COULD TEL WEST PREVENT THESE CHARGES BY ORDERING DIAL LOCK OR
16 CUSTOMIZED ROUTING?

17 A. No. Dial Lock, which Tel West already orders, and customized routing only block or
18 redirect certain types of *outgoing* calls. The collect calls improperly billed to Tel West
19 are *incoming* calls. Tel West already orders BNS, which is supposed to block incoming
20 collect calls. That alone should be sufficient.
21

22 Q. DOES TEL WEST RESELL THE QWEST COLLECT CALLS?

23 A. No. Tel West cannot resell these services because Qwest provides the calling party with
24 a rate quote at Qwest's tariffed or price-listed rates. That rate quote prevents Tel West
25 from even attempting to set a rate that would be sufficient to cover Tel West's costs of
26

1 reselling the service. However, in reality Tel West cannot collect these charges from its
2 customers at any rate for practical reasons, as I explained in my direct testimony. Tel
3 West in rare circumstances may have attempted to collect these charges from some
4 customers, but this was only part of an effort to limit losses unlawfully imposed by
5 Qwest. Tel West did not mark-up these charges as if it were reselling the services. Of
6 course, Tel West should not have to collect these charges for Qwest, since it orders BNS
7 service from Qwest.

8
9 Q. DOES THIS PROBLEM EXIST ONLY WITH COLLECT CALLS ORIGINATING
10 FROM CORRECTIONAL FACILITIES?

11 A. No, and Tel West should not have to pay for those other collect calls either. However, I
12 am focusing on the correctional facility calls since they are a very large part of the
13 disputed calls described in the Qwest Response.

14 Q. DOES QWEST BILL TEL WEST FOR COLLECT CALL CHARGES FROM OTHER
15 OPERATOR SERVICE PROVIDERS?

16 A. No. Qwest never bills Tel West for the collect call charges of other OSPs, to the best of
17 Tel West's knowledge. Qwest should treat the charges of its own OSP in the same way
18 as it treats other carriers' OSP charges and not bill any of them.

19 Q. WHAT IS THE REMEDY FOR QWEST'S ACTIONS?

20 A. The Commission should implement the remedy I requested in my direct testimony, which
21 includes requiring Qwest to expedite resolution of these billing disputes and to credit Tel
22 West for all improper charges.

23
24 Q. DOES THIS END YOUR TESTIMONY?

25 A. Yes.

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26