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

4 PAC-WEST TELECOMM, INC.,)
5)
6 Complainant,) Docket No. UT-02 _____
7)
8 v.)
9 QWEST COMMUNICATIONS, INC., F/K/A)
U S WEST COMMUNICATIONS, INC.,)
Respondent.)

DECLARATION OF
JOHN SUMPTER

10 I, John Sumpter, declare as follows:

11 1. I am Vice President, Regulatory, of Pac-West Telecomm, Inc., a position I have
12 held since July 1999. In my capacity as Vice President, Regulatory, I am responsible for
13 relations with governmental regulatory agencies, regulatory compliance, and intercarrier
14 relations. The statements in this Declaration are within my personal knowledge, and I am
15 competent to testify to them.

16 2. On February 14, 2001, the Washington Utilities and Transportation Commission
17 approved Pac-West's adoption of the "Local Interconnection Agreement" for Washington
18 between Qwest (formerly known as U S West Communications, Inc.) and Northwest
19 Telephone, Inc ("Agreement"). A true and correct copy of this Agreement is attached hereto as
20 Exhibit A.

21 3. As set forth in the Agreement, the Pac-West and Qwest are obligated to
22 compensate each other for the termination of Exchange Service (EAS/Local) traffic. "The
23 Parties agree that per minute of use call termination rates as described in Part H of this
24 Agreement will apply reciprocally for the termination of Exchange Service (EAS/Local)
25 traffic." Section (C) 2.3.4.1.1.

26 4. As set forth in the Agreement, the call termination per rate is \$.0018 per minute
27 of use ("MOU").

DECLARATION OF JOHN SUMPTER - 1
Seattle

Davis Wright Tremaine LLP
LAW OFFICES
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Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 5. Since March 2001, Pac-West has billed Qwest for reciprocal compensation
2 pursuant to the Agreement. Qwest has refused to pay the invoiced amount of reciprocal
3 compensation, but instead paid a reduced amount based upon its interpretation of the FCC
4 *Order on Remand* adopted April 27, 2001 (In the Matter of Implementation of the Local
5 Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 and
6 Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68, Order on Remand and
7 Report and Order).

8 6. From March 2001 until March 2002, Pac-West has billed Qwest \$387,124.20,
9 while Qwest has paid only \$252,064.17. Therefore, Qwest owes Pac-West at least
10 \$135,060.03.

11 7. Pac-West has communicated with Qwest numerous times regarding Qwest's
12 underpayment and has negotiated with Qwest in good faith in an attempt to resolve this issue.

13 8. Despite the good faith negotiations described below, the parties failed to resolve
14 this issue.

15 9. On or about August 30, 2001, Pac-West sent a letter to Qwest responding to a
16 string of Qwest letters and emails regarding reciprocal compensation issues raised in the FCC
17 *Order on Remand*. Pac-West suggested modifications to a Qwest proposed amendment to the
18 parties' Agreement.

19 10. On or about October 16, 2001, I participated in a conference call with Qwest
20 regarding reciprocal compensation, although we did not resolve the dispute.

21 11. On or about October 29, 2001, I participated on a conference call with Qwest
22 regarding reciprocal compensation, although we did not resolve the dispute.

23 12. On or about October 31, 2001, I sent an email to Qwest regarding a proposed
24 resolution to the reciprocal compensation issue.

25 13. On or about November 12, 2001, I participated in a conference call with Qwest
26 regarding reciprocal compensation, although we did not resolve the dispute.

1 14. On or about November 27, 2001, I participated in a conference call with Qwest
2 regarding reciprocal compensation, although we did not resolve the dispute.

3 15. On or about December 4, 2001, Pac-West conducted a conference call with
4 Qwest regarding reciprocal compensation, although we did not resolve the dispute.

5 16. On or about January 16, 2002, Barry M. Lear, Pac-West Director of ILEC
6 Billing, told me Qwest refused to fully pay our reciprocal compensation invoices, invoking the
7 reciprocal compensation rate set forth in the FCC *Order on Remand*. On or about February 5,
8 2002, Qwest sent Pac-West a letter confirming its decision to dispute Pac West's reciprocal
9 compensation invoices based on the FCC *Order on Remand*.

10 17. On May 1, 2002, Pac-West's outside counsel sent a notice letter to Qwest
11 pursuant to WAC 480-09-530 of Pac-West's intent to file a petition with the WUTC for
12 enforcement of the Agreement. A true and correct copy of this letter is attached as Exhibit B.

13 I declare under penalty of perjury that the foregoing is true and correct.

14 DATED this _____ day of May 2002.

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17 _____
18 John Sumpter
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