

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

TEL WEST COMMUNICATIONS, LLC

Petitioner.

v.

QWEST CORPORATION, INC.

Respondent.

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) **DOCKET NO. UT-013097**
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RESPONSE TESTIMONY OF

KATHRYN MALONE

QWEST CORPORATION

February 28, 2002

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I. IDENTIFICATION OF WITNESS

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

A. My name is Kathryn Malone. I am employed by Qwest Corporation (“Qwest”) as a Manager – Wholesale Markets. My business address is 1801 California Street, Suite 2360, Denver, Colorado, 80202.

Q. PLEASE STATE YOUR WORK EXPERIENCE AND PRESENT RESPONSIBILITIES.

A. I began my career with Qwest (formerly U S WEST) in 1964 in the Denver Operator Services Department. In 1968, I joined the Network Facilities Department as a technical assistant. From 1968 to 1978, I held various positions responsible for coordination and design of Outside Plant Facilities. In 1978, I was promoted to Budget Manager and was responsible for preparation and forecasting of both the construction and maintenance budgets in Arizona, Colorado, Montana and Wyoming.

In May 1984, after the divestiture of the Bell System, I accepted a position in the Revenue Requirements Department. In that capacity, I was responsible for cost settlements with local exchange carriers. My responsibilities included analysis of cost separation studies. In January 1990, I was promoted to Senior Access Manager with responsibility for developing and negotiating contractual arrangements for toll access compensation with local exchange carriers. I accepted my current position as Manager – Wholesale Markets in 1998, and am responsible for Wholesale advocacy surrounding interconnection and resale of products and services.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION?

1 A. Yes. I have testified in a number of cost dockets and arbitration proceedings,
2 including Docket No. UT-003013(B) and the AirTouch arbitration, Docket No. UT-
3 990300.

4
5 **II. PURPOSE**

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7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. My testimony is a response to Tel West Communication's ("Tel West") First
9 Amended Petition for Enforcement, filed on January 10, 2002 and the Direct
10 Testimony and Supplemental Direct Testimony of Jeff Swickard on behalf of Tel
11 West. Specifically, I will address the portion of the petition that deals with the
12 provision of Operator Service and Directory Assistance ("OS/DA") in accordance
13 with the Interconnection Agreement Tel West has with Qwest.

14
15 **III. OPERATOR SERVICE/DIRECTORY ASSISTANCE ISSUE**

16
17 **Q. WHAT IS TEL WEST'S COMPLAINT?**

18 A. Tel West asserts that it is being forced to accept OS/DA services as bundled services
19 with its local access line and claims that OS/DA are not bundled under the terms of its
20 current interconnection agreement.

21
22 **Q. ON WHAT GROUNDS DOES TEL WEST BELIEVE THAT OPERATOR SERVICE
23 AND DIRECTORY ASSISTANCE ARE OPTIONAL?**

24 A. Tel West misinterprets a provision in the resale portion (Section 6.2.9) of its
25 interconnection agreement and misapplies the provisions in the Ancillary Services

1 Section (Sections 10.5.4 and 10.7.4) of the interconnection agreement. Section 6.2.9
2 states:

3 6.2.9 If Qwest provides and CLEC accepts Qwest's directory
4 assistance service or operator services for CLEC's resold local
5 Exchange Service lines, IntraLATA, such directory assistance and
6 operator services may be provided with branding as provided in the
7 Ancillary Services Section of this Agreement.

8 Section 10.5.4 states:

9 CLEC will order Directory Assistance Service by completing the
10 questionnaire entitled "Qwest Operator Services/Directory Assistance
11 Questionnaire for Local Service Providers." This questionnaire may
12 be obtained from CLEC's Qwest account manager.

13 Section 10.7.4 states:

14 CLEC will order Operator Services by completing the "Qwest
15 Operator Services/Directory Assistance Questionnaire for Local
16 Service Providers." Copies of this questionnaire may be obtained
17 from CLEC's designated Qwest account manager.

18 **Q. WHAT IS THE CORRECT INTERPRETATION OF SECTION 6.2.9 OF THE**
19 **INTERCONNECTION AGREEMENT?**

20 **A.** The correct interpretation of Section 6.2.9 is that Tel West does indeed have the
21 choice or option of obtaining OS/DA from Qwest, but is not required to do so.
22 However, it is clear from the agreement as a whole that Tel West obtains access to
23 Qwest's OS/DA if Tel West does nothing to change that option. Tel West has several
24 options that would allow it to either block access to OS/DA or to route those calls to a
25 different provider. I will discuss those options later in my testimony. The reference
26 in Section 6.2.9 describes the fact that where Tel West does not choose blocking or
27 alternative routing, Qwest is offering Tel West options where Tel West can actually
28 brand calls to Qwest's OS/DA with Tel West's own name. The terms and conditions

1 under which Qwest will provide alternative branding for OS/DA are contained in
2 Section 10, Ancillary Services, of the interconnection agreement. Section 6.2.9
3 certainly does not state that resold local access service comes without access to
4 OS/DA, but that is Tel West's incorrect interpretation.

5

6 **Q. WHY DOES QWEST BELIEVE THAT ITS INTERPRETATION IS THE CORRECT**
7 **ONE?**

8 A. Tel West is purchasing local access service for resale to end user customers.
9 According to the resale provisions of the interconnection agreement, Section 6, Tel
10 West is allowed to purchase from Qwest and resell to its customers those retail
11 services that Qwest provides to its own retail customers.

12 Section 6.1.1 states in relevant part:

13 Qwest shall offer for resale at wholesale rates any
14 Telecommunications Service that it provides at retail to subscribers
15 who are not Telecommunications Carriers, subject to the terms and
16 conditions of this Section. All Qwest retail Telecommunications
17 Services are available for resale from Qwest pursuant to the Act and
18 will include terms and conditions (except prices) in Qwest's applicable
19 product Tariffs, Catalogs, Price Lists, or other retail
20 Telecommunications Services offerings.

21 Tel West purchases local access lines from Qwest that include access to OS/DA, as
22 explained in Mr. Teitzel's testimony about Qwest's retail offerings.

23

24 **Q. ARE THERE ANY OTHER REASONS WHY QWEST'S INTERPRETATION OF**
25 **SECTION 6.2.9 IS CORRECT?**

26 A. Yes, there are several. First, it is important to remember that Section 6 governs resale
27 of Qwest's retail services, and the provisions must be read in that context. Second,
28 there are other provisions in the interconnection agreement that make it clear that Tel

1 West will pay for the OS/DA charges incurred by its end users. Third, there are
2 provisions in the interconnection agreement that make it clear how Tel West can
3 obtain alternative routing for OS/DA. Fourth, Qwest's Commission-approved resale
4 tariff requires Tel West to pay for the OS/DA charges incurred by its end users.
5 Finally, Tel West's own service offering to its end users (described in its price list)
6 makes it clear that Tel West is reselling Qwest's retail products, and Mr. Teitzel
7 describes how Qwest's retail basic exchange service comes with default access to
8 operator services and directory assistance.

9

10 **Q. PLEASE DESCRIBE THE PROVISIONS OF THE INTERCONNECTION**
11 **AGREEMENT, QWEST'S TARIFF, AND TEL WEST'S PRICE LIST THAT YOU**
12 **JUST MENTIONED.**

13 **A.** There are three provisions in the interconnection agreement that are relevant. First,
14 Section 4.7 makes clear that all Basic Exchange Telecommunication Services,
15 including basic residential services, include access to OS and DA. That Section
16 provides:

17 "Basic Exchange Telecommunications Service" means a service
18 offered to end users which provides the end user with a telephonic
19 connection to, and a unique local telephone number address on, the
20 public switched telecommunications network, and which enables such
21 end user to generally place calls to, or receive calls from, other stations
22 on the public switched telecommunications network. *Basic residence*
23 *and business line services are Basic Exchange Telecommunications*
24 *Services. As used solely in the context of this Agreement and unless*
25 *otherwise agreed, Basic Exchange Telecommunications Service*
26 *includes access to ancillary services such as 911, directory assistance*
27 *and operator services.*

28 Second, Section 6.3.5, states that "CLEC agrees to pay Qwest when its end user
29 activates any services or features that are billed on a per use or per activation basis..."

1 Mr. Teitzel describes that both OS and DA are billed on a per use basis. Third, there
2 is the section that addresses customized routing, Section 9.12. Customized routing is
3 discussed later in my testimony.
4

5 Qwest's resale tariff, approved by the Commission, also contains relevant provisions.
6 The applicable tariff sheets are attached to this testimony as Exhibit KM-2. The tariff
7 states very clearly that the reseller is responsible for payment in full of charges
8 incurred for toll, directory assistance, etc. (WN U-43 Section 2.1 B.3.). The tariff
9 also states that Tel West must allow its end users to access a local operator (WN U-43
10 Section 2.1 B. 17.). I am not certain that Tel West's demands in this case comport
11 with Qwest's tariff requirements. Finally, Tel West's own price list states that it sets
12 forth the terms and conditions for the furnishing of "resold intrastate telecommunica-
13 tions services". Again, Qwest is only obligated to provide Tel West for resale those
14 services that Qwest provides to its own end users, and in the case of basic exchange
15 service, that includes a line that has access to directory assistance and operator
16 services.
17

18 **Q. HOW IS TEL WEST MISAPPLYING SECTIONS 10.5.4 AND 10.7.4 OF THE**
19 **INTERCONNECTION AGREEMENT?**

20 **A.** Sections 10.5.4 and 10.7.4 are provisions that are in place in order for Qwest to meet
21 its obligation under Section 271 of the Telecommunication Act to provide non-
22 discriminatory access to Qwest's Operator and Directory Assistance Services. These
23 provisions are contained separately in the agreement because they apply to all
24 carriers, not just resellers. Because the provisions are contained in Section 10,
25 facilities-based carriers, or carriers purchasing UNEs can also obtain access to OS

1 and DA. Qwest meets its obligation to provide non-discriminatory access to OS and
2 DA to resellers by virtue of the fact that such access is automatically included on the
3 resold line in the same manner that Qwest provides its own retail services.

4

5 Tel West is attempting to use the provisions in Section 10 inappropriately to support
6 its misinterpretation of Section 6.2.9. These provisions simply describe the ordering
7 process for a non-reseller CLEC, or for a reseller if the reseller chooses to have Qwest
8 brand the services.

9

10 **Q. DOES QWEST HAVE RETAIL SERVICES THAT CAN BE RESOLD THAT ALLOW**
11 **A CUSTOMER TO RESTRICT THE TYPES OF CALLS THAT CAN BE**
12 **ORIGINATED ON THE LOCAL SERVICE LINE?**

13 **A.** Yes. Qwest offers a number of retail services to allow the customer to exercise
14 control over the use of its local access telephone lines, e.g., Long Distance
15 Restriction, Pay Per Call Restriction, Dial Lock, and CustomNet. Long Distance
16 Restriction and Pay Per Call Restriction provide the customer the ability to control
17 the types of calls that the end user can originate. Dial Lock is a service that Tel West
18 has apparently been ordering in an attempt to block its customers' calls to Directory
19 Assistance. CustomNet provides Qwest's customer (here, Tel West) the ability to
20 control the types of calls that the end user can originate and terminate. Tel West can
21 purchase CustomNet to restrict the origination of long distance calls, calls to OS/DA,
22 O+ calls, 00- calls, 01+ calls, 101XXXX0+ calls, 101XXXX01+ calls, 900 and 976
23 calls and Qwest Complete A Call. Mr. Teitzel's testimony will discuss this retail
24 service, and the pricing for it, in greater detail. In accordance with the
25 interconnection agreement, Tel West can purchase these services for a 50% discount
26 off the nonrecurring charge, and 14.74% discount off the monthly recurring charge.

1

2 **Q. PLEASE COMMENT ON TEL WEST'S CLAIMS THAT QWEST REQUIRES TEL**
3 **WEST TO ORDER BLOCKING FEATURES SUCH AS DIAL LOCK.**

4 A. As I stated earlier, Tel West is reselling local exchange services that Qwest provides
5 to its retail customers. Since Qwest's retail basic local service does not block long
6 distance calls or calls to the operator or directory assistance, Qwest has developed
7 various restriction services that allow customers to manage the types of calls that are
8 completed over their telephone lines. To provide the control over the types of calls
9 that are completed over the resale local services, Tel West is required to purchase a
10 call restriction service to restrict the end user from dialing directory assistance or an
11 operator to complete long distance calls.

12

13 **Q. DOES QWEST REQUIRE TEL WEST TO ORDER DIAL LOCK?**

14 A. No. In fact, Qwest has notified resellers (including Tel West) in late 2001 that Dial
15 Lock is designed for use by the end-user to control/limit charges on their local service
16 line, including charges for long distance calls and that Dial Lock is not designed to
17 function as a toll blocking tool for resellers.

18

19 **Q. HOW DID QWEST NOTIFY TEL WEST REGARDING THE IMPROPER USE OF**
20 **DIAL LOCK?**

21 A. Qwest sent out a product notification letter to its wholesale customers to inform them
22 that updated information regarding optional features for resale was available on the
23 Qwest Wholesale customer website. Dial Lock was specifically identified in the
24 letter as an optional feature with updated information. Copies of the notification and
25 the URL referred to in the notification are attached to this testimony as Exhibit KM-3.

1 Tel West has not denied that it was aware of and received this notice late in 2001.¹

2 As the notice makes clear, Dial Lock is not designed to function as a toll-blocking
3 tool for resellers.

4

5 **Q. DOES QWEST HAVE A WHOLESALE SERVICE OFFERING THAT WILL**
6 **ALLOW A CLEC TO DENY ITS END USER ACCESS TO OS/DA?**

7 A. Qwest offers customized routing to allow a CLEC to choose an OS/DA provider
8 other than Qwest. A variation of customized routing would allow a CLEC to divert
9 OS/DA calls to an intercept announcement rather than an alternative provider. In this
10 instance, Tel West is not selecting another OS/DA provider; rather, it is requesting
11 that the 0+ calls and the DA calls from its end users be routed to a recorded
12 announcement indicating that the requested service is unavailable.

13

14 **Q. WHAT IS CUSTOMIZED ROUTING?**

15 A. Customized routing is a service that enables the CLEC to direct particular classes of
16 calls to specific outgoing trunks that will permit the CLEC to provide its own
17 interoffice facilities or select among other providers of interoffice facilities, operator
18 services and directory assistance. Customized routing is a software function of a
19 switch, and requires both changes in the switch and the purchase of DS1 trunks and
20 DS1 trunk ports to transport the calls to the alternative provider. Customized routing
21 may be ordered as an application with Resale, or Unbundled Local Switching or
22 UNE-P combination services. In this instance, Tel West's customers that dial 0+
23 calls or 411 would be directed to a recorded announcement instead of an outgoing

¹ Attached as Exhibit KM-4 are excerpts from Tel West's responses and supplemental responses to Qwest's First Data Requests. See Tel West's response to data request Qwest-008. Attached as Exhibit KM-5 are excerpts from Tel West's responses to Qwest's Second Data Requests and Exhibit B to Qwest's Second Data Requests. See Tel West's response to data request Qwest-029(a) and Qwest-056.

1 trunk group. I described this as a variation on customized routing because the only
2 requirement to accomplish this is in the switch. Since there is no requirement to
3 transport the calls to another provider, Tel West would not be required to purchase
4 the DS1 trunks or trunk ports. The prices for customized routing are being addressed
5 in Part D of the current cost docket. However, the service is currently available to Tel
6 West and other carriers, at the rates in their interconnection agreements or, if there are
7 no rates in the agreement, at SGAT rates.

8

9 **Q. TO YOUR KNOWLEDGE, DID TEL WEST, BEFORE FILING ITS PETITION**
10 **COMMENCING THIS PROCEEDING, PURSUE A CUSTOMIZED ROUTING**
11 **SOLUTION WITH QWEST?**

12 A. No. Although Qwest specifically suggested that customized routing might suffice to
13 resolve Tel West's concerns and provided Tel West with a Customized Routing
14 Service Request for Line Class Code form ("Customized Routing Request Form"),
15 Tel West did not complete and return it to Qwest. In his Direct Testimony, Mr.
16 Swickard indicated that customized routing is not viable for two reasons. First, he
17 testified that customized routing only allows calls to be rerouted to alternate carriers.
18 *Swickard Part A Direct Testimony, at page 9, line 24 – page 10, line 2.* As I
19 explained above, this is simply untrue as Tel West could also utilize a customized
20 routing solution to simply intercept and block attempted OS/DA calls. Had Tel West,
21 as Qwest suggested to it, investigated customized routing as an option (rather than
22 dismissing it out of hand), its misunderstanding would have been corrected. Second,
23 Mr. Swickard testified that "Qwest customized routing charges are cost prohibitive."
24 *Id., at page 10, lines 2-3.* Given Tel West's refusal to complete and return the
25 Customized Routing Request Form, neither Tel West nor Qwest could possibly
26 approximate how much customized routing would cost Tel West. Unlike Dial Lock,

1 which is billed per line, customized routing is billed (on a non-recurring basis) per
2 switch. Thus, a complete identification of the central offices Tel West serves is
3 necessary before a quote can be provided. After reading Mr. Swickard's testimony,
4 Qwest served its Second Data Requests on Tel West (*see Exhibit KM-5*) in an attempt
5 to understand Tel West's position regarding customized routing. See data requests
6 Qwest-027, Qwest-043 and Exhibit B, which relate to customized routing. Within
7 one day of Qwest serving its Second Data Requests on Tel West, Tel West faxed to
8 Qwest's counsel a mostly-incomplete Customized Routing Request Form, a copy of
9 which is attached hereto as Exhibit KM-6. I understand Qwest's counsel notified Tel
10 West's counsel that the form was incomplete and suggested that, if Tel West needed
11 assistance, it contact its account manager. While Qwest would be pleased to join with
12 Tel West in an investigation as to the capabilities, viability and cost of a customized
13 routing solution, Qwest is concerned that Tel West's fax of the incomplete
14 Customized Routing Request Form is not a bona fide request for service. Compare
15 the form returned by Tel West with the blank form attached as Exhibit B to Qwest's
16 Second Data Requests (at Exhibit KM-5).

17

18 **Q. PLEASE RESPOND TO TEL WEST'S COMMENTS REGARDING RECOVERING**
19 **COSTS FOR BLOCKING SERVICES.**

20 **A.** Tel West's complaint is unfounded. First, Tel West admits that it has targeted
21 customers that have been denied service by Qwest because of non-payment of their
22 telephone bills. Tel West is able to charge these customers a much higher rate than
23 Qwest (Tel West, according to its price list, charges \$49.99 a month for basic local
24 service; Qwest charges \$12.50) because Qwest has already disconnected service due
25 to non-payment. In accordance with provisions in the Qwest tariff, Qwest will not
26 allow the customer to reconnect service until the outstanding charges are paid. Now,

1 Tel West – which admits that its pricing methodology includes specific consideration
2 of bad debt costs,² is complaining that it incurs heavy losses because its customers
3 don’t pay their bills. Tel West should already anticipate a higher rate of
4 uncollectables because of the credit history of their target customers. In addition, it is
5 my understanding that Tel West does not even attempt to collect OS and DA charges
6 from its end users, although Tel West’s testimony and data request responses are
7 inconsistent on this point.³ Instead, Tel West disputes each charge for pay per use
8 services (including OS and DA) and demands credits from Qwest.⁴ Tel West does
9 not obtain security deposits from its customers. *Swickard Part A Direct Testimony at*
10 *page 6, lines 9-10.*⁵ Furthermore, there are a number of other ways (which will be
11 described in greater detail in the testimony of Larry Brotherson) in which Tel West’s
12 neglect contributes to charges it does not want to be billed for appearing on its billing
13 statement from Qwest, including not ordering appropriate, available blocking or
14 restriction services (e.g., CustomNet, customized routing and not following through
15 on its purported disconnection policy for its customers’ use of pay per use services.⁶
16 Tel West should not be asking the Commission for relief when it has apparently done

² See Exhibit KM-5 (response to Qwest-034).

³ See Exhibit KM-4: Tel West’s response to data request Qwest-005(a) (“Tel West states that there are no charges on Tel West’s customer statements that specifically mention any blocking services provided to Tel West by Qwest.”); Tel West’s response to data request Qwest-010 (“Tel West states that it does not attempt to collect these [pay per use] charges from end users, except in unusual circumstances.” and “Tel West does not dispute charges with Qwest if it is attempting to collect them from end users.”); Tel West’s response to data request Qwest-012 (“Tel West does not attempt to collect these charges from its customers, except in very rare circumstances.”). See also Exhibit KM-5: Tel West’s response to data requests Qwest-053 (“Generally, Tel West elects to attempt collection if the amount of charges incurred is over \$30.00, although that is not a rigid standard.”) and Qwest-059 (“Tel West attempts collection on a case-by-case basis”).

⁴ See Exhibit KM-4: Tel West’s response to data request Qwest-010 (“Now, Tel West disputes all charges [for OS/DA].”)

⁵ See also Section 3.4 of Tel West’s price list, attached (to Exhibit KM-4) to Tel West’s response to data request Qwest-005.

⁶ See Exhibit KM-4: Tel West’s response to data request Qwest-003 (“Tel West’s efforts to block customers from accessing pay-per-use services include...disconnecting the customer’s service when Tel West discovers access to pay-per-use services by the customer has occurred.”) Despite this assertion, it appears from Tel West’s billing dispute spreadsheets attached to Mr. Swickard’s testimony that Tel West has not done so.

1 very little, if anything, to mitigate the effect of these charges, and indeed is in a
2 situation largely of its own making.

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4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 **A. Yes it does.**

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