

DIVIDER

STATE OF NORTH DAKOTA
INFORMATION TECHNOLOGY DEPARTMENT
SFN 2053 (4-2002)

DESCRIPTION

Out of order
PU-2829-03-83



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
web www.psc.state.nd.us
e-mail ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

September 29, 2005

Mr. Allen C. Hoberg, Director
Office of Administrative Hearings
1707 North 9th Street – Lower Level
Bismarck, ND 58501-1882

Re: ITC Group v. Qwest
PSC Case No. PU-2829-03-83
OAH File No. 20030206

Dear Mr. Hoberg:

In response to your request for confirmation of the destruction or retention of the prehearing conference tape in the above-named case, there has been no further activity in regard to this matter. The prehearing conference tape may be destroyed.

For your convenience, we have enclosed a copy of the Commission's Order issued in this case.

If you have any questions, please contact us.

Sincerely,

William W. Binek
Chief Counsel

Enclosure

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

**Qwest Corporation
Switched Access Traffic
Tariff**

Case No. PU-2342-03-361

ORDER

January 26, 2005

On February 10, 2003 the Commission received a Formal Complaint for Injunctive Relief and Reparation (Formal Complaint) filed by BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company, LLC, Midstate Telephone Company, Midstate Communications, Inc, Moore & Liberty Telephone Company, North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, Reservation Telephone Cooperative, SRT Communications, Inc, United Telephone Mutual Aid Corporation, Turtle Mountain Communications, Inc, West River Telecommunications Cooperative, Dakota Carrier Network, L.L.C., and Illuminet, Inc (Complainants), Case No. PU-2829-03-83. The Formal Complaint alleged that Qwest Corporation (Qwest) has violated stte law and policy, as well as its contractual and tariff obligations by virtue of its improper implementation of its existing intrastate Signaling System No 7 tariff structure

On February 27, 2003 the Commission found the Formal Complaint stated a prima facie case On April 4, 2003 Qwest filed its answer to the Formal Complaint.

On June 24, 2003 Qwest Corporation (Qwest) filed price schedule revisions modifying intrastate jurisdictional reporting requirements for switched access traffic to allow customer to self-report a Percent Other Messages of intrastate use, Case No. PU-2342-03-361. The new reporting would exclude Signaling System No 7 (SS7) signaling message charges for local, Extended Area Service, intraMTA, and the LEC portion of jointly provided access and toll originated by Qwest and that terminates on the customer's network.

On July 15, 2003 Complainants filed a Complaint, Objections and Request for Docketing (Complaint) This Complaint was filed because the Complainants had challenged Qwest's implementation and applications of SS7 message charges in Case No PU-2389-03-83 and the price schedule filed in the instant proceeding required further revision to clarify certain critical provisions regarding its application On August 13, 2003 the Commission found the Complaint stated a prima facie case On September 4, 2003 Qwest filed its answer to the Complaint.

On July 16, 2003 the Office of Administrative Hearings issued a scheduling order in Case No PU-2829-03-83 scheduling a hearing on January 12-16, 2004

Based upon a Joint Motion to Stay submitted by Complainants and Qwest, the Commission issued its August 22, 2003 order temporarily staying Case No PU-2389-03-83 until October 1, 2003. The parties filed a joint motion to renew the stay on October 1, 2003 which was granted by Commission order issued October 10, 2003.

On February 23, 2004 the parties recommended that the Hearing Officer amend the schedule in this proceeding and set a hearing for December 1, 2004. On February 25, 2004 the Hearing Officer issued the Amended Scheduling Order stating that the hearing be held after December 1, 2004.

On January 5, 2005 the Complainants and Qwest filed a Stipulation for Dismissal with Prejudice in Case No PU-2829-03-83 stating that the parties have settled their differences and the matter is dismissed with prejudice

On January 12, 2005 the Complainants and Qwest filed a Stipulation for Dismissal in Case No. PU-2342-03-361 stating that the parties have settled their differences and stipulate to a dismissal of the action, with prejudice


Based on the foregoing, the Commission issues the following:

Order

1. The Stipulation for Dismissal with Prejudice in Case No. PU-2829-03-83 is approved.
2. The Stipulation for Dismissal in Case No. PU-2342-03-361 is approved
- 3 Case Nos PU-2829-03-83 and PU-2342-03-361 are closed
4. A copy of the Stipulation for Dismissal with Prejudice in Case No PU-2829-03-83 and the Stipulation for Dismissal in Case No. PU-2342-03-361 is attached to this order

PUBLIC SERVICE COMMISSION


Susan E. Wefald
Commissioner


Tony Clark
President


Kevin Cramer
Commissioner



OFFICE OF ADMINISTRATIVE HEARINGS

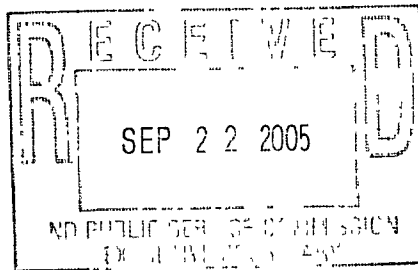
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state nd us
www state nd us/oah

September 21, 2005

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505



Re: ITC Group v. Quest
PU-2829-03-83
OAH File No. 20030206

Dear Mr. Binek:

This is our **second notice** to inform you that more than sixty days have passed since the final order in the above-titled matter was issued.

In reviewing the file in this matter there is no indication that any further action has been requested. Please confirm, in writing, whether your agency has, or has not, received any requests for further action regarding the final order issued in this matter. If no further action has been requested, the hearing tapes for this matter will be destroyed immediately upon receipt of the enclosed confirmation letter, signed by the appropriate person. If a request for further action has been received, and the Office of Administrative Hearings has been informed of such action, the hearing tapes will be retained for an additional amount of time.

Thank you for your attention to this matter.

Sincerely,

Allen C. Hoberg
Director

lmw
Enc.

Mr. Allen C. Hoberg, Director
Office of Administrative Hearings
1707 North 9th Street – Lower Level
Bismarck, ND 58501-1882

Re: ITC Group v. Quest
PU-2829-03-~~03~~
OAH File No. 20030206

Dear Mr. Hoberg:

In response to your request for confirmation of the destruction or retention of the prehearing conference tape in the above-named case, there has been no further activity in regard to this matter. The prehearing conference tape may be destroyed.

Sincerely,

William W. Binek
Hearing Administrator
Public Service Commission



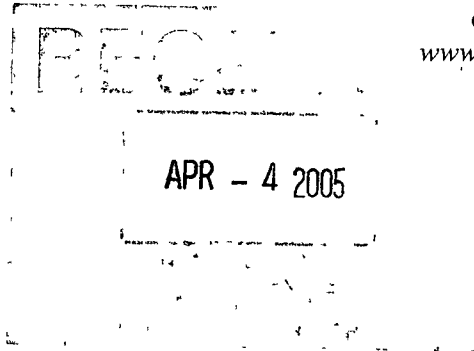
OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

April 1, 2005



Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

Re: ITC Group v. Qwest
PU-2829-03-83
OAH File No. 20030206

Dear Mr. Binek:

Our records indicate that on January 6, 2005, we closed our file in the above-titled matter due to a settlement. More than sixty days have passed since its issuance. In reviewing the file in this matter there is no indication that any further action has been requested. Please confirm, in writing, whether your agency has, or has not, received any requests for further action regarding the final order issued in this matter. If no further action has been requested, the prehearing conference tapes for this matter will be destroyed immediately upon receipt of the enclosed confirmation letter, signed by the appropriate person. If a request for further action has been received, and the Office of Administrative Hearings has been informed of such action, the prehearing conference tapes will be retained for an additional amount of time.

Thank you for your attention to this matter.

Sincerely,

Allen C. Hoberg
Director

ACH/eap

Enc.

Mr. Allen C. Hoberg, Director
Office of Administrative Hearings
1707 North 9th Street – Lower Level
Bismarck, ND 58501-1882

Re: ITC Group v. Qwest
PU-2829-03-~~83~~
OAH File No. 20030206

Dear Mr. Hoberg:

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Sincerely,

William W. Binck
Hearing Administrator



Public Service Commission
Receipt of Payment

Receipt# 6158

Received 3/8/2005 Check# 65078 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

SRT Communications, Inc.
3615 N Broadway P O Box 2027
Minot ND 58702-2027

130 PU-2829-03-83

Pages 1

Receipt# 6,158 \$31 59

by SRT Communications, Inc

03/08/2005



Public Service Commission
Receipt of Payment

Receipt# 6135

Received 2/15/2005 Check# 94368 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

North Dakota Telephone Company
PO Box 180
Devils Lake ND 58301-0180

129 PU-2829-03-83

Pages 1

Receipt# 6,135 \$31 59

by North Dakota Telephone Company

02/15/2005

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint

Case No. PU-2829-03-83

Qwest Corporation
Switched Access Traffic
Tariff

Case No. PU-2342-03-361

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL AND ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that

she is over the age of 18 years and not a party to this action and, on the **27th day of January, 2005**, she deposited in the United States Mail, Bismarck, North Dakota, **three** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of

Order

The envelopes were addressed as follows

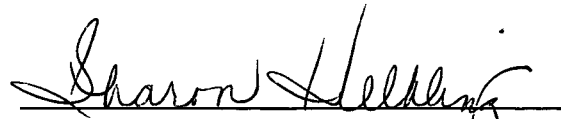
Scott Macintosh
Qwest Corporation
200 N 5th St
Bismarck ND 58501
Cert. No. 7003 2260 0001 3517 9473

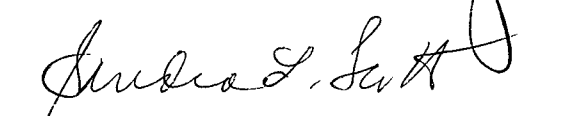
Don Negaard
Pringle & Hengstad
P O Box 1000
Minot ND 58702-1000
Cert. No. 7003 2260 0001 3517 9480

Thomas J Moorman
Kraskin Lesse & Cosson LLC
2120 L St NW Ste 520
Washington D C 20037
Cert. No. 7003 2260 0001 3517 9497

Each address shown is the respective addressee's last reasonably ascertainable post office address

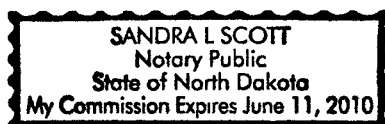
Subscribed and sworn to before me
this **27th day of January, 2005**





Notary Public

SEAL



128 PU-2829-03-83

Pages 1

Affidavit of Service

by Public Service Commission

01/27/2005

C. Comm Legal PUD (4) Mike ALJ

APPROVED

DATE 1-26-05
KME

MOTION

January 26, 2005

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

**Qwest Corporation
Switched Access Traffic
Tariff**

Case No. PU-2342-03-361

I move the Commission adopt the Order approving the stipulations for dismissal filed by the parties in Case Nos PU-2829-03-83 and PU-2432-03-361, and close the cases
sdh

3
/

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

**Qwest Corporation
Switched Access Traffic
Tariff**

Case No. PU-2342-03-361

ORDER

January 26, 2005

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126 PU-2829-03-83

Pages 10

Order

by Public Service Commission

01/26/2005

C. Comm Legal PUD (4) Mike ALJ

Based upon a Joint Motion to Stay submitted by Complainants and Qwest, the Commission issued its August 22, 2003 order temporarily staying Case No PU-2389-03-83 until October 1, 2003. The parties filed a joint motion to renew the stay on October 1, 2003 which was granted by Commission order issued October 10, 2003.

On February 23, 2004 the parties recommended that the Hearing Officer amend the schedule in this proceeding and set a hearing for December 1, 2004. On February 25, 2004 the Hearing Officer issued the Amended Scheduling Order stating that the hearing be held after December 1, 2004.

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Based on the foregoing, the Commission issues the following:

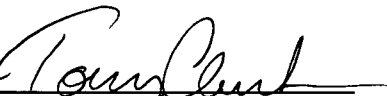
Order

1. The Stipulation for Dismissal with Prejudice in Case No PU-2829-03-83 is approved.
2. The Stipulation for Dismissal in Case No. PU-2342-03-361 is approved.
3. Case Nos PU-2829-03-83 and PU-2342-03-361 are closed.
4. A copy of the Stipulation for Dismissal with Prejudice in Case No PU-2829-03-83 and the Stipulation for Dismissal in Case No PU-2342-03-361 is attached to this order.

PUBLIC SERVICE COMMISSION



Susan E. Wefald
Commissioner



Tony Clark
President



Kevin Cramer
Commissioner



OFFICE OF ADMINISTRATIVE HEARINGS

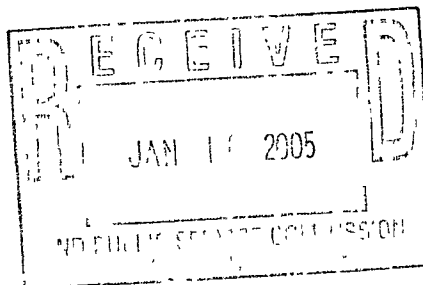
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

January 7, 2004

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 E. Boulevard Avenue
Bismarck, ND 58505



Dear Mr. Binek:

On June 19, 2003, you requested the designation of an administrative law judge from the Office of Administrative Hearings to conduct a hearing in the matter of ITC Group v. Qwest (PU-2829-03-03). I was designated as a procedural hearing officer to conduct the hearing, but not to make recommended findings of fact and conclusions of law, or issue a recommended order. Although a hearing on this matter had been scheduled, it had been stayed. I have now received a copy of a stipulation of dismissal with prejudice in this matter. I understand that the agency will issue the appropriate order, if necessary.

I am closing our file on this matter and returning that portion of the record I have in my possession to you for filing with the official agency record of this matter.

If this matter is not settled or otherwise disposed of, and a new hearing is scheduled, please make a new request for the designation of an administrative law judge for this matter using the appropriate OAH administrative law judge request form.

I have retained the prehearing conference tapes (2). Unless we hear otherwise from you, the tapes of the prehearing conference will be held for a period of sixty days after the closing of this file.

Sincerely,

Allen C. Hoberg
Administrative Law Judge

ACH/ljc
Encl.

cc: Charles W. Steese
Don Negaard

125 PU-2829-03-83

Pages 1

Letter closing ALJ's file

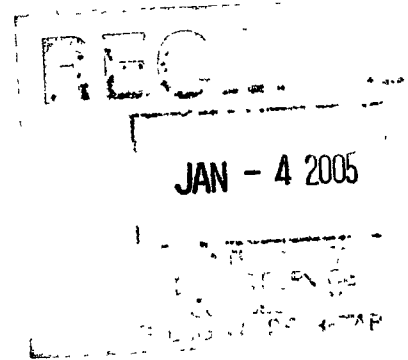
by Office of Administrative Hearings

01/11/2005

C Comm Legal PUD (4) Mike ALJ

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)



Case No. PU-2829-03-83

STIPULATION OF DISMISSAL WITH PREJUDICE

BEK Communications Cooperative, Consolidated Telcom, Dakota Central
 Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County
 Telephone Company, Inter-Community Telephone Company, LLC, Midstate Telephone
 Company, Midstate Communications, Inc., Moore & Liberty Telephone Company, North Dakota
 Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual

Aid Corporation, Reservation Telephone Cooperative, SRT Communications, Inc., Turtle Mountain Communications, Inc., United Telephone Mutual Aid Corporation, West River Telecommunications Cooperative (all hereinafter referred to as "LEC Complainants and ITC"), Dakota Carrier Network, L.L.C. ("DCN"), and Illuminet, Inc. ("Illuminet") (collectively "Complainants") and Respondent Qwest Communications ("Qwest") hereby submit this stipulation of dismissal with prejudice ("the Stipulation").

Whereas the parties have settled their differences in this matter, which concerns a dispute about charges billed by Qwest via its intrastate access catalog for use of its signaling network. These charges were billed between mid-2001 and July 2003. The access catalog has since been modified, and as such the settlement concerns an historic dispute. The parties hereby stipulate that the settlement agreement executed between the parties resolves the matter and that this action shall be and hereby is dismissed with prejudice, each party to bear its own costs and attorney's fees.

Dated: 12-16-04

Respectfully submitted,


PRINGLE & HERIGSTAD, P.C.

By: Don Negaard, ND Bar ID #03598
Attorneys for Complainant
LECs, ITC and DCN
2525 Highway 2 & 52 Bypass
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381
Fax (701) 857-1361

KRASKIN, MOORMAN & COSSON, LLC



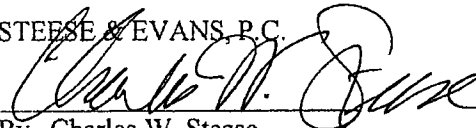
By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N W , Suite 520
Washington, D.C. 20037
(202) 296-8890
Fax (202) 296-8893

STEPTOE & JOHNSON, LLP

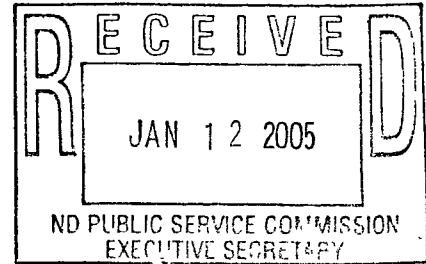


By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000
Fax (202) 429-3902

STEESE & EVANS, P.C.



By: Charles W. Steese
Attorney for Respondent Qwest
Communications
6400 South Fiddlers Green Circle
Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Qwest Common Channel Signaling) Case No. PU-2342-03-361
Modification Tariff)

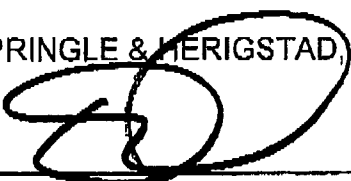
STIPULATION FOR DISMISSAL

BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company, LLC, Midstate Telephone Company, Midstate Communications, Inc., Moore & Liberty Telephone Company, North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, Reservation Telephone Cooperative, SRT Communications, Inc., United Telephone Mutual Aid Corporation, Turtle Mountain Communications, Inc., West River Telecommunications Cooperative (all hereinafter referred to as LEC Complainants and ITC), and Dakota Carrier Network, L.L.C., (hereinafter referred to as DCN), by and through their attorney, Don Negaard of Pringle & Herigstad, P.C., and Illuminet, Inc., by and through its attorney, Thomas J. Moorman of Kraskin, Moorman & Cosson, LLC, (collectively "Complainants") and Qwest Corporation, by and through its attorney, Charles W. Steese of Steese & Evans, P.C., hereby submit this stipulation of dismissal with prejudice.

The parties have settled their differences and hereby stipulate to a dismissal of this action, with prejudice and with each party to bear its own costs and attorney's fees. The parties agree that an Order of Dismissal may be entered immediately.

Dated this ____ day of January, 2005

PRINGLE & HERIGSTAD, P.C.



By: Don Neegaard, ND Bar ID #03598
Attorneys for Complainant LECs, ITC
and DCN
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000

STEESE & EVANS, P.C.

By: Charles W. Steese
Attorneys for Qwest Corporation
6400 South Fiddlers Green Circle,
Suite 1820
Denver, CO 80111

KRASKIN, MOORMAN & COSSON, LLC

By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036

Sent By: company;

202 296 8893;

Jan-12-05 2:22PM;

Page 2/2

Dated this _____ day of January, 2005.

PRINGLE & HERIGSTAD, P.C.

STEESE & EVANS, P.C.

By: Don Negaard, ND Bar ID #03598
Attorneys for Complainant LECs, ITC
and DCN
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000

By: Charles W. Steese
Attorneys for Qwest Corporation
6400 South Fiddlers Green Circle,
Suite 1820
Denver, CO 80111

KRASKIN, MOORMAN & COSSON, LLC



By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036

Dated this _____ day of January, 2005.


PRINGLE & HERIGSTAD, P.C.

By: Don Negaard, ND Bar ID #03598
Attorneys for Complainant LECs, ITC
and DCN
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000

KRASKIN, MOORMAN & COSSON, LLC

By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036

STEESE & EVANS, P.C.


By: Charles W. Steese
Attorneys for Qwest Corporation
6400 South Fiddlers Green Circle,
Suite 1820
Denver, CO 80111



OFFICE OF ADMINISTRATIVE HEARINGS

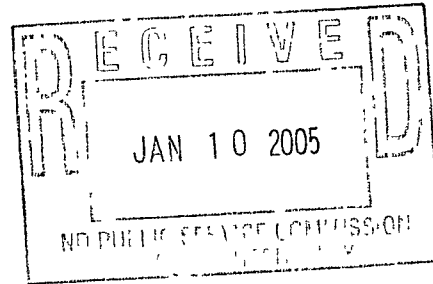
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DIRECTOR

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www.state.nd.us/oah

January 7, 2004

Mr. William W. Binek
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Dear Mr. Binek:

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If this matter is not settled or otherwise disposed of, and a new hearing is scheduled, please make a new request for the designation of an administrative law judge for this matter using the appropriate OAH administrative law judge request form.

I have retained the prehearing conference tapes (2). Unless we hear otherwise from you, the tapes of the prehearing conference will be held for a period of sixty days after the closing of this file.

Sincerely,

Allen C. Hoberg
Administrative Law Judge

ACH/ljc
Encl.

cc: Charles W. Steese
Don Negaard

125 PU-2829-03-83

Pages 1

Letter closing ALJ's file

by Office of Administrative Hearings

01/11/2005

C Comm Legal PUD (4) Mike ALJ



Public Service Commission
Receipt of Payment

Receipt# 6106

Received 1/5/2005 Check# 28465 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Polar Communications Mutual Aid Corporation

Park River ND 58270



Public Service Commission
Receipt of Payment

Receipt# 6102

Received 1/5/2005 Check# 10572 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Moore & Liberty Tele Co.

Enderlin ND 58027

123 PU-2829-03-83

Pages 1

Receipt# 6,102 \$31 59

by Moore & Liberty Tele Co

01/05/2005



Public Service Commission
Receipt of Payment

Receipt# 6096

Received 1/5/2005 Check# 101054 for \$31 59

Subject Utility Valuation

Docket # PU-2829-03-83

.

Profile balance \$. Notify

West River Telecommunications Cooperative

Hazen ND 58545

122 PU-2829-03-83

Pages 1

Receipt# 6,096 \$31 59

by West River Telecommunications Cooperative

01/05/2005

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc ,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

REC-111
 JAN - 4 2005
 PUBLIC SERVICE COMMISSION
 NORTH DAKOTA

Case No. PU-2829-03-83

STIPULATION OF DISMISSAL WITH PREJUDICE

BEK Communications Cooperative, Consolidated Telcom, Dakota Central
 Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County
 Telephone Company, Inter-Community Telephone Company, LLC, Midstate Telephone
 Company, Midstate Communications, Inc., Moore & Liberty Telephone Company, North Dakota
 Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual

Aid Corporation, Reservation Telephone Cooperative, SRT Communications, Inc , Turtle Mountain Communications, Inc , United Telephone Mutual Aid Corporation, West River Telecommunications Cooperative (all hereinafter referred to as "LEC Complainants and ITC"), Dakota Carrier Network, L.L.C. ("DCN"), and Illuminet, Inc. ("Illuminet") (collectively "Complainants") and Respondent Qwest Communications ("Qwest") hereby submit this stipulation of dismissal with prejudice ("the Stipulation")

Whereas the parties have settled their differences in this matter, which concerns a dispute about charges billed by Qwest via its intrastate access catalog for use of its signaling network. These charges were billed between mid-2001 and July 2003. The access catalog has since been modified, and as such the settlement concerns an historic dispute. The parties hereby stipulate that the settlement agreement executed between the parties resolves the matter and that this action shall be and hereby is dismissed with prejudice, each party to bear its own costs and attorney's fees.

Dated: 12-16-04

Respectfully submitted,


PRINGLE & HERIGSTAD, P.C

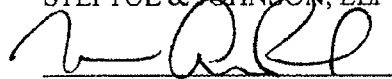
By. Don Negaard, ND Bar ID #03598
Attorneys for Complainant
LECs, ITC and DCN
2525 Highway 2 & 52 Bypass
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381
Fax (701) 857-1361

KRASKIN, MOORMAN & COSSON, LLC

/MAP

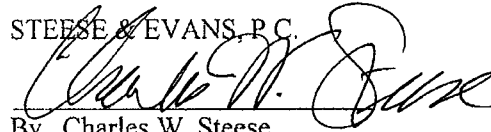
By Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N.W., Suite 520
Washington, D C 20037
(202) 296-8890
Fax (202) 296-8893

STEPTOE & JOHNSON, LLP



By Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D C. 20036
(202) 429-3000
Fax (202) 429-3902

STEESE & EVANS, P.C.



By Charles W. Steese
Attorney for Respondent Qwest
Communications
6400 South Fiddlers Green Circle
Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679



Public Service Commission
Receipt of Payment

Receipt# 6085

Received 12/21/2004 Check# 13688 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Midstate Communications, Inc
P. O. Box 400
Stanley ND 58784-0400

120 PU-2829-03-83

Pages 1

Receipt# 6,085 \$31 59

by Midstate Communications, Inc

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6083

Received 12/21/2004 Check# 43111 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Midstate Telephone Co.

Stanley ND 58784

119 **PU-2829-03-83** Pages 1
Receipt# 6,083 \$31 59
by Midstate Telephone Co
12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6081

Received 12/21/2004 Check# 51504 for \$63 18
Subject Utility Valuation (also pd for Turtle Mountain)

Docket # PU-2829-03-83

United Telephone Mut Aid Corp

Langdon ND 58249

118 **PU-2829-03-83**

Pages 1

Receipt# 6,081 \$63 18

by United Telephone Mut Aid Corp

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6075

Received 12/21/2004 Check# 500331579 for \$31 58
Subject Utility Valuation

Docket # PU-2829-03-83

Qwest
5325 Zuni St Room 728
Denver CO 80221

117 PU-2829-03-83

Pages 1

Receipt# 6,075 \$31 58

by Qwest

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6072

Received 12/21/2004 Check# 86473 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

BEK Communications Cooperative

Steele ND 58482



Public Service Commission
Receipt of Payment

Receipt# 6068

Received 12/21/2004 Check# 11390 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Inter-Community Telephone Company
PO Box 8
Nome ND 58062-0008

115 PU-2829-03-83 Pages 1

Receipt# 6,068 \$31 59

by Inter-Community Telephone Company

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6067

Received 12/21/2004 Check# 28002 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Northwest Communications Cooperative

Ray ND 58849



Public Service Commission
Receipt of Payment

Receipt# 6065

Received 12/21/2004 Check# 64487 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Dickey Rural Telephone Cooperative

Ellendale ND 58436

113 PU-2829-03-83

Pages 1

Receipt# 6,065 \$31 59

by Dickey Rural Telephone Cooperative

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6063

Received 12/21/2004 Check# 103239 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Consolidated Telcom
507 S Main
Dickinson ND 58601

112 PU-2829-03-83

Pages 1

Receipt# 6,063 \$31 59

by Consolidated Telcom

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6061

Received 12/21/2004 Check# 44121 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Reservation Telephone Cooperative

Parshall ND 58770

111 PU-2829-03-83 Pages 1

Receipt# 6,061 \$31 59

by Reservation Telephone Cooperative

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6059

Received 12/21/2004 Check# 14975 for \$31 58
Subject Utility Valuation

Docket # PU-2829-03-83

Dakota Carrier Network, LLC
PO Box 2484
Fargo ND 58108

110 **PU-2829-03-83**

Pages 1

Receipt# 6,059 \$31 58

by Dakota Carrier Network, LLC

12/21/2004



Public Service Commission
Receipt of Payment

Receipt# 6057

Received 12/21/2004 Check# 12850 for \$31 59
Subject Utility Valuation

Docket # PU-2829-03-83

Griggs County Tele Co.
Cooperstown ND 58425

109 **PU-2829-03-83**

Pages 1

Receipt# 6,057 \$31 59

by Griggs County Tele Co

12/21/2004

APPROVED

DATE: 12-1-04
KMF

MOTION

December 1, 2004

Admir

A3

ITC Group/DCN/Illuminet
vs Qwest Corporation
Complaint

Case No PU-2829-03-83

I move the Commission bill the parties for costs incurred to date in Case
No. PU-2829-03-83, ITC Group/DCN/Illuminet vs Qwest Corporation, Complaint



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E Wefald
Kevin Cramer

Executive Secretary
Illona A Jeffcoat-Sacco

600 E Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
web www.psc.state.nd.us
e-mail ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

December 1, 2004

Jerome Tishmack
BEK Communications Cooperative
PO Box 230
Steele ND 58482-0230

Paul Schuetzler
Consolidated Telcom
PO Box 1077
Dickinson ND 58601-1077

Keith Larson
Dakota Central Telecommunications
Cooperative
PO Box 299
Carrington ND 58421-0299

Mark Scallon
Dickey Rural Telephone Cooperative
PO Box 69
Ellendale ND 58436-0069

Ray Brown
Griggs County Telephone Company
PO Box 506
Cooperstown ND 58425-0506

Keith Anderson
Inter-Community Telephone Company LLC
PO Box 8
Nome ND 58062-0008

Mark Wilhelm
Midstate Telephone Company
Midstate Communications Inc
PO Box 400
Stanley ND 58784-0400

Ray Brown
Moore & Liberty Telephone Company
PO Box 66
Enderlin ND 58027

Dave Dircks
North Dakota Telephone Company
PO Box 180
Devils Lake ND 58301-0180

Dwight Schmitt
Northwest Communications Cooperative
PO Box 38
Ray ND 58849-0038

David Dunning
Polar Communications Mutual Aid Corp
PO Box 270
Park River ND 58270-0270

Royce Aslakson
Reservation Telephone Cooperative
PO Box 68
Parshall ND 58770-0068

Steve Lysne
SRT Communications Inc
PO Box 2027
Minot ND 58702-2027

Kenneth Carlson
United Telephone Mutual Aid Corporation
Turtle Mountain Communications Inc
PO Box 729
Langdon ND 58249-0729

Case No PU-2829-03-83
Page 2
December 1, 2004

Albert Grosz
West River Telecommunications
Cooperative
PO Box 467
Hazen ND 58545-0467

Evan Hass
Dakota Carrier Network LLC
PO Box 2484
Fargo ND 58108

Scott Macintosh
Qwest Corporation
PO Box 5508
Bismarck ND 58502-5508

RE. Case No PU-2829-03-83
ITC Group/DCN/Illuminet
vs Qwest Corporation
Complaint

Enclosed is a copy of the statement approved at the December 1, 2004 Public Service Commission meeting for the expenses incurred to date in Case No. PU-2829-03-83.

Under N.D.C.C. 49-21-01.7, these expenses are billed through the Valuation Fund and must be paid for by the telecommunications company involved

Please make your check payable to the *Public Service Commission*

Sincerely,


Gloria Geiger
Admin Staff Officer
701-328-2401

Enc.

c Don Negaard
Pringle & Herigstad
PO Box 1000
Minot ND 58702-1000

Billing Statement

December 1, 2004

ITC Group/DCN/Illuminet*
vs Qwest Corporation
Complaint

Case No. PU-2829-03-83

Bill To:

BEK Communications Cooperative	\$31.59
Consolidated Telcom.	\$31.59
Dakota Central Telecommunications Cooperative	\$31.59
Dickey Rural Telephone Cooperative.....	\$31.59
Griggs County Telephone Company	\$31.59
Inter-Community Telephone Company LLC.....	\$31.59
Midstate Telephone Company	\$31.59
Midstate Communications Inc	\$31.59
Moore & Liberty Telephone Company.....	\$31.59
North Dakota Telephone Company.....	\$31.59
Northwest Communications Cooperative	\$31.59
Polar Communications Mutual Aid Corporation	\$31.59
Reservation Telephone Cooperative.....	\$31.59
SRT Communications, Inc.....	\$31.59
United Telephone Mutual Aid Corporation	\$31.59
Turtle Mountain Communications, Inc.....	\$31.59
West River Telecommunications Cooperative.....	\$31.59
Dakota Carrier Network, LLC	\$31.58
Qwest Corporation	\$31.58

* Illuminet, Inc. is a party to this case, but is a non-jurisdictional company; therefore, they are not billed for expenses incurred.

Expenses Incurred to Date:

Office of Administrative Hearings	\$600.19
-----------------------------------	----------

Send Payment and a Copy of this Statement To:

Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
Federal Tax ID 45-0309764

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

AFFIDAVIT OF SERVICE BY ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that

she is over the age of 18 years and not a party to this action and, on the **18th day of October, 2004**, she deposited in the United States Mail, Bismarck, North Dakota, **nine** envelopes with ordinary postage, fully prepaid, securely sealed and each containing a photocopy of:

Order Temporarily Staying Case

The envelopes were addressed as follows

Don Negaard
Pringle & Herigstad
P O Box 1000
Minot ND 58702-1000

Thomas J Moorman
Kraskin Lesse & Cosson LLC
2120 L St NW Ste 520
Washington D C 20037

Melissa Thompson
Qwest Corporation
1801 California, 49th Floor
Denver, CO 80202

Charles W Steese
Steese & Evans, PC
6400 South Fiddlers Green Circle, Suite 1820
Denver, CO 80111

Scott Macintosh
Qwest Corporation
P. O Box 5508
Bismarck, ND 58502-5508

Alfred M. Mamlet
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

Marc A. Paul
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

Phil Douglass
Steese & Evans, PC
6400 South Fiddlers Green Circle, Suite 1820
Denver, CO 80111

W. Chelsea Chen
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

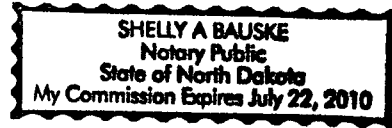
Each address shown is the respective addressee's last reasonably ascertainable post office address

Andrea L. Scott

Subscribed and sworn to before me
this **18th day of October, 2004**

Shelly A Bauske
Notary Public

SEAL





OFFICE OF ADMINISTRATIVE HEARINGS

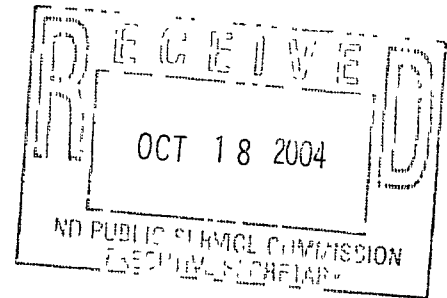
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

October 14, 2004

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 E. Boulevard Avenue
Bismarck, ND 58505



Re: BEK Communications – Case No. PU-2829-03-83
OAH File No. 20030206

Dear Ms. Jeffcoat-Sacco:

Enclosed is the original Order Temporarily Staying Case signed by me in regard to the captioned matter. Please serve it on the parties involved in the above matter. I have retained a copy for my file.

Sincerely,

Allen C. Hoberg
Administrative Law Judge

ACH/ljc

Enc.

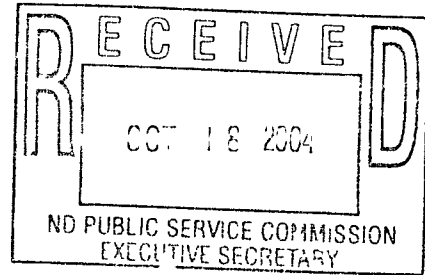
cc: Ms. Sandi Scott

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative,)
 SRT Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc.,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent.)

CASE NO. PU-2829-03-83



ORDER TEMPORARILY STAYING CASE

.....

The North Dakota Public Service Commission ("Commission"), having considered the Joint Motion to Stay submitted by Complainants and Respondent pursuant to North Dakota Administrative Code § 69-02-02-08 and, upon good cause shown, hereby enters an Order temporarily staying the case until November 30, 2004, subject to the following conditions:

1. All pending dates set forth in the Commission's Second Amended Scheduling Order dated August 12, 2004, including, but not limited to: (1) dates for filing testimony, (2)

motion dates, and (3) hearing dates, are hereby vacated and extended for at least the length of time that this temporary stay is in place.

2. The temporary stay ordered herein will not prohibit any party from seeking additional extensions of time of the existing procedural schedule for good cause shown.

3. No party has waived any issue or admitted any liability or responsibility by entering into settlement negotiations.

4. The parties agree that, if the parties are unable to finalize their settlement, Illuminet will be able to depose Qwest in a Rule 30(b)(6) deposition, Qwest will be able to depose Illuminet in a Rule 30(b)(6) deposition, and Qwest will respond to requests made at previous depositions for production of documents.

5. The parties agree that a revised Scheduling Order may be sought by any party on or after November 30, 2004. This will assure that the parties continue the efforts to finalize the details of this settlement and would allow any party to request a new schedule if efforts are not proceeding toward prompt resolution.

If the parties are unable to reach an accord on or before November 30, 2004, any party may submit a request for a procedural conference for the purpose of determining a revised scheduling order for this case.

Dated at Bismarck, North Dakota this 14 day of October, 2004.

State of North Dakota
Public Service Commission

By: 

Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

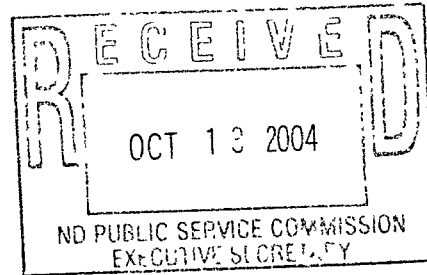
Marc A Paul
202 429 6484
mpaul@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202 429 3000
Fax 202 429 3902
steptoe.com

October 12, 2004

BY FEDERAL EXPRESS

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505



Re: NDPS Case No. PU-2829-03-83

Dear Ms Jeffcoat-Sacco:

Enclosed please find an original and seven copies of the parties' Joint Motion to Renew the Temporary Stay to Facilitate Documentation of Settlement for the above-referenced case number. Please note that the Joint Motion is being executed by each of the parties, who are forwarding their respective copies under separate cover. Also, enclosed please find an additional copy which we ask you to date-stamp and return in the enclosed postage-prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Marc A. Paul

Enclosures

cc: Allen C. Hoberg, Administrative Law Judge
William W. Binck
Charles W. Steese (by facsimile)
Don Negaard (by facsimile)
Thomas J. Moorman (by facsimile)

103 PU-2829-03-83

Pages 1

Cover letter re Joint Motion

by Illuminet Inc by Alfred M Mamlet Attorney

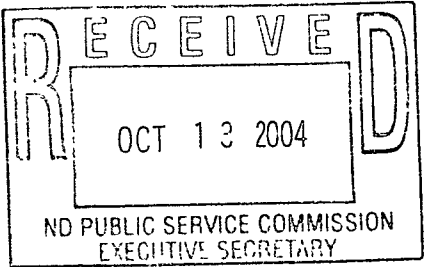
10/13/2004

C Comm Legal PUD (3) Mike ALJ

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative,)
 SRT Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc.,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent.)

CASE NO. PU-2829-03-83



**JOINT MOTION TO RENEW THE TEMPORARY STAY TO FACILITATE
DOCUMENTATION OF SETTLEMENT**

Pursuant to North Dakota Administrative Code § 69-02-02-08, ITC Group, DCN, Illuminet, and Qwest Corporation (collectively “the Parties”) respectfully request that the North Dakota Public Service Commission (“Commission”), through its designated Hearing Officer, further stay this case until November 30, 2004, to provide the Parties with focused time to finalize a settlement in this matter. The Parties have reached an agreement in principle on economic terms for settlement of this proceeding. The Parties wish to focus their efforts during

the stay period on documenting non-economic terms of the settlement and to seek approval and concurrence of non-parties who are impacted by settlement. To ensure that the requested stay prejudices no party, the Parties have conditioned their request upon certain conditions, which include the following. Specifically:

1. All pending dates for (1) filing testimony, (2) motion dates, and (3) hearing dates must be vacated and extended for at least the length of time that the temporary stay is in place. In other words, if the Parties' settlement efforts do not resolve the case, all dates for filing in the Commission's Scheduling Order would be extended by at least six weeks. This will ensure that the requested temporary stay is not used for, or does not result in, prejudice to any party.

2. The temporary stay will not prohibit any party from seeking additional extensions of time of the existing procedural schedule as necessary for good cause shown.

3. The Parties agree that no party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

4. The Parties have agreed that, if the Parties are unable to finalize their settlement, Illuminet will be able to depose Qwest in a Rule 30(b)(6) deposition, Qwest will be able to depose Illuminet in a Rule 30(b)(6) deposition, and Qwest will respond to requests made at previous depositions for production of documents.

5. The Parties agree that a revised Scheduling Order may be sought by any party after November 30, 2004. This will assure that the Parties continue the efforts to finalize the details of this settlement and would allow any party to request a new schedule on or after November 30, 2004, if efforts are not proceeding toward prompt resolution.

The Parties therefore respectfully request that the Commission enter an order granting a temporary stay in this case effective immediately. A proposed form of order is attached for Commission approval.

Respectfully submitted,

Dated: _____

By: _____

Don Negaard
PRINGLE & HERIGSTAD, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

Dated: _____

By: _____

By: Thomas J. Moorman
KRASKIN, MOORMAN & COSSON
2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Dated: October 13, 2004

By: Alfred M. Mamlet

Alfred M. Mamlet
STEPTOE & JOHNSON, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Attorneys for Illuminet

Dated: _____

By: _____

Charles W. Steese
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)	
Consolidated Telcom, Dakota Central)	
Telecommunications Cooperative, Dickey)	CASE NO. PU-2829-03-83
Rural Telephone Cooperative, Griggs County)	
Telephone Company, Inter-Community)	
Telephone Company, LLC, Midstate)	
Telephone Company, Midstate)	
Communications, Inc., Moore & Liberty)	
Telephone Company, North Dakota)	
Telephone Company, Northwest)	
Communications Cooperative, Polar)	
Communications Mutual Aid Corporation,)	
Reservation Telephone Cooperative,)	
SRT Communications, Inc., Turtle Mountain)	
Communications, Inc., United Telephone)	
Mutual Aid Corporation, West River)	
Telecommunications Cooperative, Dakota)	
Carrier Network, LLC, and Illuminet, Inc.,)	
)	
Complainants,)	
)	
-vs-)	
)	
Qwest Communications,)	
)	
Respondent.)	

ORDER TEMPORARILY STAYING CASE

.....

The North Dakota Public Service Commission (“Commission”), having considered the Joint Motion to Stay submitted by Complainants and Respondent pursuant to North Dakota Administrative Code § 69-02-02-08 and, upon good cause shown, hereby enters an Order temporarily staying the case until November 30, 2004, subject to the following conditions:

1. All pending dates set forth in the Commission’s Second Amended Scheduling Order dated August 12, 2004, including, but not limited to: (1) dates for filing testimony, (2)

motion dates, and (3) hearing dates, are hereby vacated and extended for at least the length of time that this temporary stay is in place.

2. The temporary stay ordered herein will not prohibit any party from seeking additional extensions of time of the existing procedural schedule for good cause shown.

3. No party has waived any issue or admitted any liability or responsibility by entering into settlement negotiations.

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If the parties are unable to reach an accord on or before November 30, 2004, any party may submit a request for a procedural conference for the purpose of determining a revised scheduling order for this case.

Dated at Bismarck, North Dakota this ____ day of October, 2004.

State of North Dakota
Public Service Commission

By: _____

Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

K R A S K I N, M O O R M A N & C O S S O N, L L C
ATTORNEYS AT LAW

2120 L Street, N W., Suite 520
Washington, D C 20037

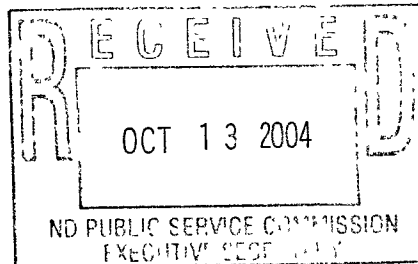
Telephone (202) 296-8890
Telecopier (202) 296-8893

October 12, 2004

VIA OVERNIGHT MAIL

Ms. Ilona A. Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue, Department 408
Bismarck, North Dakota 58505-0480

ORIGINAL



**Re: Case No. PU-2829-03-83
BEK Communications Cooperative, et al. v. Qwest
Communications**

Dear Ms. Jeffcoat-Sacco

Enclosed for filing the above-captioned matter are an original and seven copies of the parties' Joint Motion to Renew the Temporary Stay to Facilitate Documentation of Settlement in the above-reference matter. Please note that the Joint Motion is being executed by each of the parties, who will be forwarding their respective copies under separate cover.

Sincerely,

Thomas J. Moorman
Counsel to Illuminet, Inc.

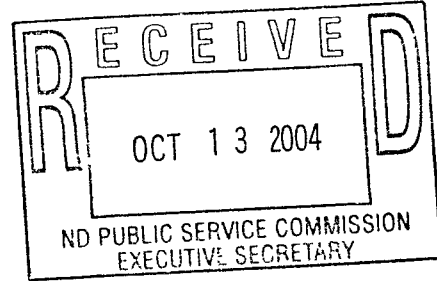
Enclosures

cc: Allen C. Hoberg, Administrative Law Judge (via overnight mail)
C. Steese (via facsimile)
D. Negaard (via facsimile)
A. Mamlet (via facsimile)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
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 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc ,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent)

CASE NO PU-2829-03-83



**JOINT MOTION TO RENEW THE TEMPORARY STAY TO FACILITATE
DOCUMENTATION OF SETTLEMENT**

Pursuant to North Dakota Administrative Code § 69-02-02-08, ITC Group, DCN, Illuminet, and Qwest Corporation (collectively “the Parties”) respectfully request that the North Dakota Public Service Commission (“Commission”), through its designated Hearing Officer, further stay this case until November 30, 2004, to provide the Parties with focused time to finalize a settlement in this matter. The Parties have reached an agreement in principle on economic terms for settlement of this proceeding. The Parties wish to focus their efforts during

the stay period on documenting non-economic terms of the settlement and to seek approval and concurrence of non-parties who are impacted by settlement. To ensure that the requested stay prejudices no party, the Parties have conditioned their request upon certain conditions, which include the following Specifically:

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The Parties therefore respectfully request that the Commission enter an order granting a temporary stay in this case effective immediately. A proposed form of order is attached for Commission approval

Respectfully submitted,

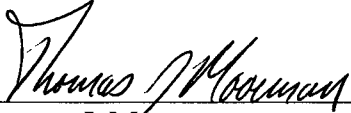
Dated: _____

By: _____

Don Negaard
PRINGLE & HERIGSTAD, P.C
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

Dated: 10/12/04

By: 

By: Thomas J. Moorman
KRASKIN, MOORMAN & COSSON
2120 L Street, N W , Suite 520
Washington, D.C. 20037

Dated: _____

By: _____

Alfred M. Mamlet
STEPTOE & JOHNSON, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Attorneys for Illuminet

Dated: _____

By: _____

Charles W. Steese
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)	
Consolidated Telcom, Dakota Central)	
Telecommunications Cooperative, Dickey)	CASE NO. PU-2829-03-83
Rural Telephone Cooperative, Griggs County)	
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Carrier Network, LLC, and Illuminet, Inc ,)	
)	
Complainants,)	
)	
-vs-)	
)	
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)	
Respondent.)	

ORDER TEMPORARILY STAYING CASE

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Dated at Bismarck, North Dakota this ____ day of October, 2004

State of North Dakota
Public Service Commission

By: _____

Allen C Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

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JAMES E NOSTDAHL
CAROL K LARSON
DAVID J HOGUE
REED A SODERSTROM
BRENT M OLSON
DEBRA L HOFFARTH
SCOTT M KNUDSVIG
ERIKA L SLEGER
RYAN D SANDBERG

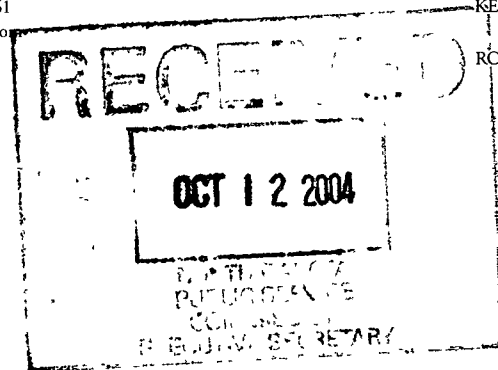
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E-mail pringle@srt.com

OF COUNSEL
HERBERT L MESSCHKE

RETIRED
THOMAS A WENTZ
MARK F PURDY
JAN M SEBBY

KENNETH G PRINGLE
(1914-1983)
ROGER O HERIGSTAD
(1919-2003)



October 11, 2004

Illona A Jeffcoat-Sacco, Executive Secretary
PUBLIC SERVICE COMMISSION
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS
CASE NO. PU-2829-03-83**

Enclosed for filing in the above-captioned matter are an original and seven copies of a Joint Motion to Renew the Temporary Stay to Facilitate Documentation of Settlement, including a proposed Order Temporarily Staying Case. The Joint Motion is being executed in separate counterparts and the other parties to this action will be forwarding their counterparts to you for filing. In addition, an electronic version of these documents is being sent to you on this date.

By a copy of this letter to Judge Hoberg, we are providing him with a copy of the enclosed Motion and proposed Order.

Jo Thompson
Secretary to Don Negaard

Enclosures

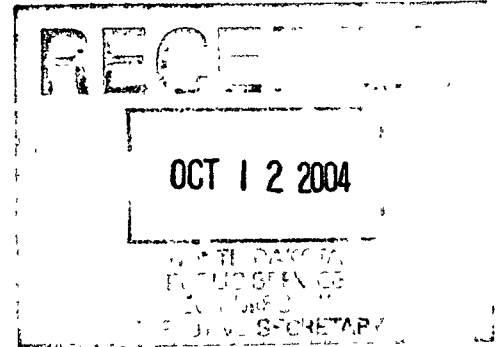
cc/enc Allen C Hoberg, Administrative Law Judge (OAH File No 20030206)

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
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CASE NO. PU-2829-03-83



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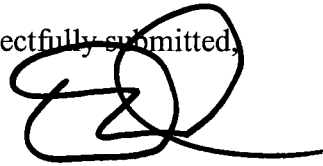
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Respectfully submitted,



Dated: October 11, 2004

By: _____
Don Negaard
PRINGLE & HERIGSTAD, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

Dated: _____

By: _____
By: Thomas J. Moorman
KRASKIN, MOORMAN & COSSON
2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Dated: _____

By: _____
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Attorneys for Illuminet

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By: _____
Charles W. Steese
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6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

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CASE NO. PU-2829-03-83

ORDER TEMPORARILY STAYING CASE

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State of North Dakota
Public Service Commission

By: _____

Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

STEESE & EVANS, P.C.

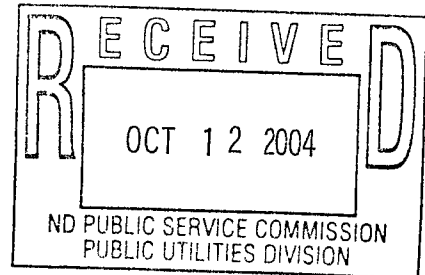
6400 South Fiddlers Green Circle, Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679
www.s-elaw.com

Allison Tomaselli: (720) 200-0624
atomaselli@s-elaw.com

October 11, 2004

Via Federal Express

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505



Re: ITC Group v. Qwest Corp., NDPSC Case No. PU-2829-03-83

Dear Ms. Jeffcoat-Sacco:

Enclosed, please find the original and seven copies of the parties' JOINT MOTION TO RENEW THE TEMPORARY STAY TO FACILITATE DOCUMENTATION OF SETTLEMENT for the above-referenced case number. Please note that the Joint Motion is being executed by each of the parties, who will be forwarding their respective copies under separate cover.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Allison Tomaselli".

Allison Tomaselli

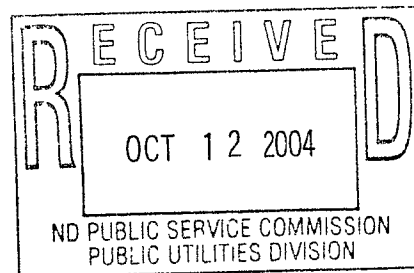
Enclosures

cc: Allen C. Hoberg, Administrative Law Judge

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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CASE NO. PU-2829-03-83



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Respectfully submitted,

Dated: _____

By: _____
Don Negaard
PRINGLE & HERIGSTAD, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

Dated: _____


By: _____
By: Thomas J. Moorman
KRASKIN, MOORMAN & COSSON
2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Dated: _____

By: _____
Alfred M. Mamlet
STEPTOE & JOHNSON, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Attorneys for Illuminet

Dated: 10/11/04

By: 
Charles W. Steese
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)	
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ORDER TEMPORARILY STAYING CASE

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Dated at Bismarck, North Dakota this ____ day of October, 2004.

State of North Dakota
Public Service Commission

By: _____

Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

MOTION

October 8, 2004

APPROVED

DATE: 10-8-04
AS

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

I move that W. Chelsea Chen, a non-resident attorney, be given permission to practice before the Commission on behalf of Illuminet, Inc., in Case No. PU-2829-03-83.

WWB/sls



Public Service Commission
State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E Wefald
Kevin Cramer

Executive Secretary
Illona A Jeffcoat-Sacco

600 E Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
web www.psc.state.nd.us
e-mail ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

October 11, 2004

Mr. Don Negaard
Pringle & Herigstad, P.C.
P O. Box 1000
Minot, ND 58702-1000

Re BEK Communications Cooperative, et al.
vs Qwest Corporation
Complaint
Case No PU-2829-03-83

Dear Mr. Negaard:

Enclosed is a copy of the Commission's Motion approving the request of W Chelsea Chen, non-resident attorneys, to practice before the Commission on behalf of Illuminet, Inc., in the above referenced case.

If you have any questions, please contact me.

Thank you

Sincerely,

William W Binek
Chief Counsel

WWB/sls

C. Parties of Record

DONALD A NEGAARD
JAMES E NOSTDAHL
CAROL K LARSON
DAVID J HOGUE
REED A SODERSTROM
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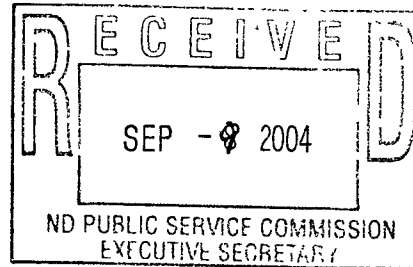
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PRINGLE & HERIGSTAD, P.C.
2525 ELK DRIVE
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702
(701) 852-0381
FAX (701) 857-1361
E-mail pringle@srt.com

OF COUNSEL
HERBERT L MESCHKE

RETIRED
THOMAS A WENTZ
MARK F PURDY
JAN M SEBBY

ROGER O HERIGSTAD
(1919-2003)

September 8, 2004



Illona A Jeffcoat-Sacco, Executive Secretary
PUBLIC SERVICE COMMISSION
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS
CASE NO. PU-2829-03-83**

Enclosed for filing in the above-captioned matter are an original and seven copies of a Motion for Admission to Practice before the North Dakota Public Service Commission and supporting Affidavit of W Chelsea Chen as well as an Affidavit of Service by Mail A proposed Order is also included herewith


Don Negaard

jt

Enclosures

cc/enc Charles W Steese
Allen C Hoberg, Administrative Law Judge (OAH File No 20030206)

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative,)
Dickey Rural Telephone Cooperative,)
Griggs County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc , Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc , Turtle Mountain)
Communications, Inc , United Telephone)
Mutual Aid Corporation, West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L L C , and Illuminet, Inc ,)

Case No PU-2829-03-83

Complainants,)

vs)

Qwest Communications,)

Respondent)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NORTH DAKOTA)
) ss
COUNTY OF WARD)

Jo Thompson, being first duly sworn, deposes and says


She is a citizen of the United States of America, of legal age and not a party to nor interested in the matter, on the 8th day of September, 2004, this affiant deposited in the mailing department of the United States Post Office at Minot, North Dakota, a sealed envelope with postage thereon duly prepaid, containing a true and correct copy of the following documents

MOTION FOR ADMISSION TO PRACTICE
AFFIDAVIT OF W CHELSEA CHEN

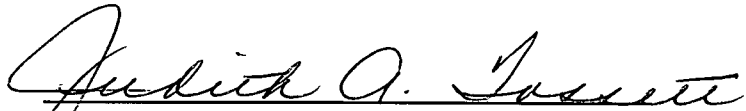
Said envelope was addressed to the following person at his known address as follows

Charles W Steese
STEESE & EVANS, P C
6400 South Fiddlers Green Circle, Suite 1820
Denver, CO 80111

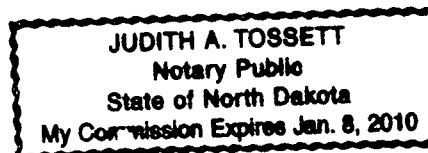
The above documents were duly mailed in accordance with the provisions of the North Dakota Rules of Civil Procedure



Subscribed and sworn to before me this 8th day of September, 2004



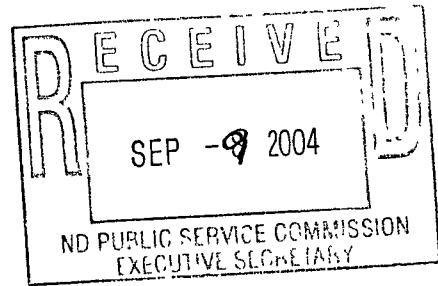
Judith A. Tossett, Notary Public
For the State of North Dakota
My commission expires 01/08/10



BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
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 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc., West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent)

Case No. PU-2829-03-83



MOTION FOR ADMISSION TO PRACTICE

The undersigned attorney of record in the above-entitled matter moves the North Dakota Public Service Commission (PSC), pursuant to Rule 11.1 of the North Dakota Rules of Court, and based on the attached Affidavit of W. Chelsea Chen, a nonresident attorney of good standing in the District of Columbia, for permission to appear before the PSC on behalf of Complainant Illuminet, Inc and to practice before the PSC in the above-pending matter. W. Chelsea Chen designates as her associate Attorney Don Negaard (North Dakota Bar ID number 03598)

Pursuant to Rule 11.1 of the North Dakota Rules of Court, the Affidavit of W

Chelsea Chen is attached hereto in support of this Motion for Admission to Practice.

Dated this 31st day of August, 2004

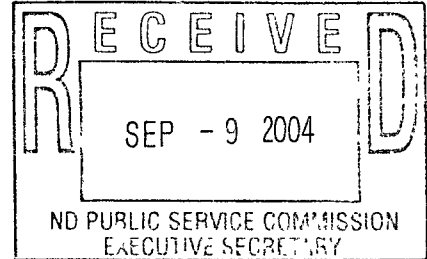


W. Chelsea Chen
STEPTOE & JOHNSON, LLP
Attorneys for Complainants
1330 Connecticut Avenue, N.W.
Washington, D.C 20036
Telephone: (202) 429-3000
Fax. (202) 429-3902

Don Negaard, State Bar ID #03598
PRINGLE & HERIGSTAD, P C
Attorneys for Complainants
2525 Elk Drive
Minot, ND 58701
P.O. Box 1000
Minot, ND 58702-1000
Telephone (701) 852-0381
Fax (701) 857-1361

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
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 Carrier Network, L.L.C , and Illuminet, Inc.,)
)
 Complainants,)
)
 vs)
)
 Qwest Communications,)
)
 Respondent)



Case No PU-2829-03-83

AFFIDAVIT OF W. CHELSEA CHEN

DISTRICT OF COLUMBIA

W Chelsea Chen, being first duly sworn on oath, deposes and states as follows:

1. I am currently a member in good standing to practice law in the District of Columbia

2 I am currently not subject to any public disciplinary proceedings with respect to my law license in any state

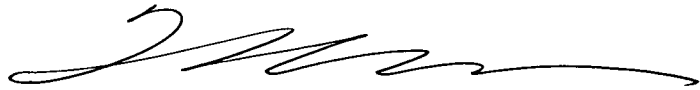
3. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

4. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction relating to the practice of law.

5. Prior to the subject action, I have not appeared in a North Dakota state court in the past three years.

Further, affiant sayeth not.

Dated this 31st day of August, 2004



W Chelsea Chen

Subscribed and sworn to before me this 31st day of August, 2004.

Marilyn Owendoff
Notary Public
For the ~~State of~~ *District of Columbia*
My commission expires. *2-28-05*

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
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 Carrier Network, L L C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs)
)
 Qwest Communications,)
)
 Respondent)

Case No PU-2829-03-83

ORDER

Attorney W Chelsea Chen filed a Motion for her admission to practice law before the North Dakota Public Service Commission in the above-captioned action After reviewing her Motion for Admission to Practice and supporting Affidavit attached thereto, the Motion is hereby granted and it is ordered that W Chelsea Chen be permitted to appear on behalf of Complainant Illuminet Inc in this matter.

Dated this _____ day of _____, 2004.

PUBLIC SERVICE COMMISSION

Anthony T. Clark
Commissioner

Susan E. Wefald
Commissioner

Kevin Cramer
Commissioner

STEPTOE & JOHNSON ^{LLP}

ATTORNEYS AT LAW

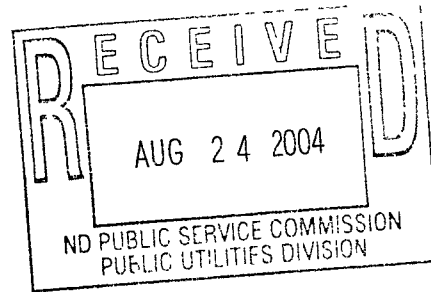
Marc A Paul
202 429 6484
mpaul@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202 429 3000
Fax 202 429 3902
steptoe.com

August 23, 2004

BY FEDERAL EXPRESS

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505



Re: NDPSC Case No. PU-2829-03-83

Dear Ms Jeffcoat-Sacco

Enclosed please find an original and seven copies of Complainant Illuminet, Inc.'s Opposition to Qwest Corporation's Motion for Protective Order and Stay of September 1-2, 2004 Depositions, which was filed electronically on August 23, 2004. Also, enclosed please find an additional copy which we ask you to date-stamp and return in the enclosed postage-prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Marc A. Paul

Enclosures

cc: William W. Binek
Charles W. Steese
Phillip L. Douglass
Don Negaard
Thomas J. Moorman

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Pages 1

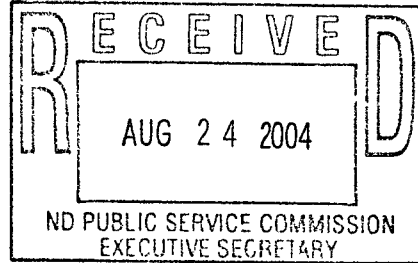
Cover letter re Opposition to Qwest's
Motion for Protective Order & Stay
by Illuminet, Inc by Marc A Paul Attorney

08/24/2004

C Comm Legal PUD (3) Mike ALJ

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
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 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)



Case No. PU-2829-03-83

**OPPOSITION TO QWEST CORPORATION'S MOTION FOR PROTECTIVE ORDER
 AND STAY OF SEPTEMBER 1-2, 2004 DEPOSITIONS**

Complainant Illuminet, Inc. ("Illuminet") hereby opposes Qwest Corporation's Motion for Protective Order and Stay filed August 18, 2004 ("Motion") in the above-captioned matter.

Qwest gives "gall" a new name. First, having not taken a single deposition or any other affirmative step to move this case along, Qwest moved to extend the discovery schedule to take depositions. After getting an extension for it to take depositions, Qwest now has the

temerity to ask for a stay of depositions of nearly two months to prevent Illuminet from taking depositions.

At the procedural conference on Qwest's motion to extend discovery in this case, Illuminet stated that it would also take depositions if the schedule was extended. The ALJ issued an order extending the schedule for one month, which would have meant that discovery would be completed by early September. The Commission's hearing schedule now provides additional time for discovery.

Illuminet noticed three depositions, providing 19 days notice (far more than the seven days notice Qwest provided Illuminet). Although Qwest previously presented the Complainants with a schedule that did not show a conflict for Qwest on September 1 and 2 for depositions, Qwest now files a Motion, claiming that these dates are no longer acceptable, and that all other dates for a two-month period are also not acceptable.

After seeking an extension of the schedule, Qwest now seeks a protective order and stay of discovery to prohibit depositions for the next two months and leave Illuminet with the week before the discovery cut-off of October 8th to take three depositions. The discovery schedule is not a pretzel to be twisted and turned in any direction for whatever tactical advantage Qwest perceives.

Qwest is simply not in a position to put the depositions off for two months at its whim or to fit the scheduling convenience of its attorneys. The discovery deadline is just that -- a deadline. Just because Qwest wants to wait until the last minute to conduct depositions (as it did in letting the original discovery period run) does not mean that Illuminet needs to do the same. Illuminet wants to take the depositions with sufficient time to digest the discovery. Illuminet

may learn information that causes it to take additional depositions or issue further document requests prior to the current North Dakota discovery deadline.

Contrary to Qwest's blanket statements, Illuminet's counsel does not have a blank schedule following the New Mexico hearing (September 21-24 and possibly into the following week). In the Qwest litigation, Illuminet's counsel needs to turn toward preparing the direct testimony in North Dakota and Iowa, and the post-hearing brief in New Mexico. In addition, the week of October 4 is not available to Illuminet's lead attorney for the depositions because of a multi-day mediation and required preparation.

Qwest also makes the red herring argument that Illuminet is really seeking discovery in advance of the New Mexico hearing. Since Illuminet and Qwest have concurrent litigation in North Dakota, New Mexico, Iowa, Colorado, Idaho and Nebraska one party could always claim that the other party's action was really for another state. Indeed, Qwest's initial request to extend the July 30, 2004 discovery deadline for two months could have been attacked as trying to conduct more discovery before the New Mexico September 21 hearing. Having pushed to expand the deposition period, Qwest is in no position to deny Illuminet the right to take depositions in North Dakota. The only Qwest employee named, Mr. Ferrin, is not even a Qwest witness in New Mexico. Given the documents that Mr. Ferrin wrote, it is quite understandable that Qwest would not want him as a trial witness, that Illuminet wants to depose him, and that Qwest is doing everything it now can to delay or deny Illuminet this opportunity.

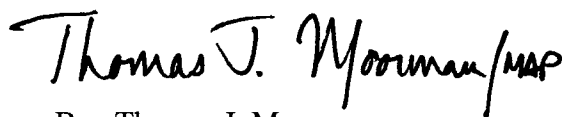
Qwest is a large company with significant legal resources. To the extent that Qwest's attorneys are now not available on September 1 and 2, Qwest has the ability to use alternate counsel to defend these depositions. Qwest's Motion should be denied and the ALJ should require Qwest's witnesses to be made available on September 1 and 2. At a bare

minimum, Qwest should offer alternative dates for the depositions during the weeks of August 30 or September 6, instead of trying to stonewall this case for two months.

In the interests of all parties, Illuminet respectfully suggests that the ALJ hold a telephone conference at his earliest convenience to resolve this matter.

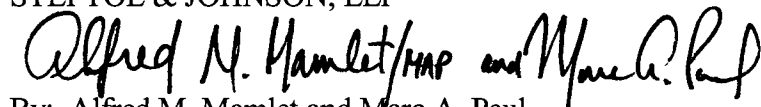
Dated this 23 day of August, 2004.

KRASKIN, MOORMAN & COSSON, LLC

Handwritten signature of Thomas J. Moorman in black ink, with the initials 'MAP' written at the end of the signature.

By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
(202) 296-8890
Fax (202) 296-8893

STEPTOE & JOHNSON, LLP

Handwritten signatures of Alfred M. Mamlet and Marc A. Paul in black ink, with the initials 'MAP' written at the end of the first signature.

By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000
Fax (202) 429-3902

CERTIFICATE OF SERVICE

I do hereby certify that on this 23rd day of August, 2004, I caused a true and correct copy of the foregoing Opposition to Qwest Corporation's Motion to be served on the following:

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

By electronic filing and Federal Express

William W Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

By Federal Express

Charles W. Steese
Phillip L. Douglas
STEESE & EVANS, P.C.
6400 South Fiddlers Green, Suite 1820
Denver, CO 80111

By Federal Express and Electronic Mail

Don Negaard
Pringle & Hergstad, P.C.
2525 Elk Drive
Minot, ND 58701

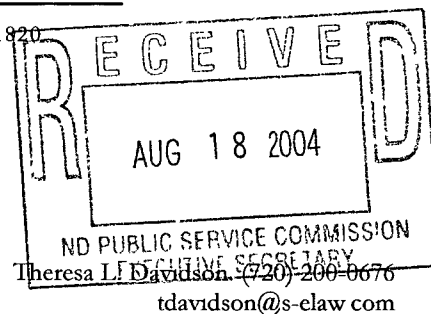
By First Class U.S. Mail



Marc A. Paul
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000
Fax (202) 429-3902

STEESE & EVANS, P.C.

6400 South Fiddlers Green Circle, Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679
www.s-elaw.com



August 18, 2004

Via U.S. Mail
and Electronic Mail

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

Re: ITC Group v. Qwest Corp., NDPSC Case No. PU-2829-03-83

Dear Ms. Jeffcoat-Sacco:

Enclosed, please find QWEST CORPORATION'S MOTION FOR PROTECTIVE ORDER AND STAY OF SEPTEMBER 1-2, 2004 DEPOSITIONS for the above-referenced case number. Should you have any questions or concerns, please do not hesitate to call. The original document has been sent via standard U.S. Mail.

Very truly yours,

A handwritten signature in black ink that reads "Theresa L. Davidson".

Theresa L. Davidson
Legal Assistant to Phillip L. Douglass

Enclosures

cc: Thomas J. Moorman (via U. S Mail)
Don Negaard (via U S Mail)
Alfred M. Mamlet (via Federal Express)
Marc Paul (via U. S Mail)
William W. Binek (via U. S Mail)
Chuck Steese (via Electronic Mail)
Phil Douglass (via Electronic Mail)

88 PU-2829-03-83

Pages 1

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs County)
Telephone Company, Inter-Community)
Telephone Company, LLC, Midstate)
Telephone Company, Midstate)
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Communications, Inc., United Telephone)
Mutual Aid Corporation, West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc.,)
)
Complainants,)
)
-vs-)
)
Qwest Communications,)
)
Respondent.

CASE NO. PU-2829-03-83

**QWEST CORPORATION'S MOTION FOR PROTECTIVE ORDER AND STAY OF
SEPTEMBER 1-2, 2004 DEPOSITIONS**

Pursuant to N. D. R. Civ. P. 26(c), Respondent Qwest Corporation ("Qwest") respectfully requests that the Commission enter a protective order, quashing Complainant Illuminet's notices of deposition for September 1 and 2, 2004, and directing that the depositions be taken at a time and location convenient to Complainants, Respondents, and the witnesses. The filing of this motion should act as an automatic stay of the depositions; however, out of an abundance of

caution Qwest seeks a stay of the depositions until late September or early October because the true purpose for noticing the depositions at an inconvenient time is to gather information for an alternative proceeding in New Mexico, even though the time for taking depositions in New Mexico has long since passed.

The Commission has now set a schedule that will permit discovery through October 8, 2004. The parties have no conflicts between September 27 and October 8, 2004. There is simply no reason to hold depositions when Qwest's counsel cannot attend, at a time that provides inadequate time for preparation, and when it is obvious that the true purpose of the timing is for Complainants to prepare for a parallel New Mexico hearing beginning September 20, 2004. The Commission should grant Qwest's Motion for Protective Order.

I. FACTS

On July 21, 2004, the ALJ held a procedural conference to discuss the schedule. Qwest explained that a substantial delay had prevented it from obtaining documents until late June 2004, and therefore requested a two month extension. The ALJ extended the schedule by one month, and stated that the hearing would be set for after January 1, 2005. The ALJ also stated that if the parties were unable to agree on a schedule that the ALJ would set dates. On August 4, 2004, Qwest counsel and Alfred Mamlet for Illuminet discussed setting a schedule for the remainder of this case. In these discussions, Qwest counsel represented that he intended to take

at least one Rule 30(b)(6) deposition, and Mr. Mamlet represented that he planned to take three depositions including one Rule 30(b)(6) deposition.¹ The parties also disclosed dates that posed problems. Specifically:

Problematic Date	Reason
August 11-12, 2004	Depositions for Steese
August 18-27, 2004	Vacation for Mamlet
August 31, 2004	Deposition for Steese
September 3, 2004	Church retreat for Steese
September 6, 2004	Labor Day
September 8-9, 2004	Oral argument before Nebraska Supreme Court for Steese
September 20-24, 2004	5-Day Hearing before the New Mexico Supreme Court for both lawyers

On August 4, 2004, the parties received word that the Commission intended to hold the hearing in this matter on February 21, 2005. As a result of the Commission's hearing date, undersigned counsel circulated an email that stated:

In light of this hearing date, can we propose the following dates for the remainder of this docket:

Discovery Cutoff: October 8, 2004

Direct Testimony: October 12, 2004

Responsive Testimony: December 14, 2004

Rebuttal Testimony: January 18, 2004

¹ Qwest points out that Rule 30(b)(6) depositions take additional time for preparation. Witnesses are required to perform research and prepare themselves to testify as a corporate representative. *See, e.g., Calzaturificio S.C.A.R.P.A v Fabiano Shoe Company, Inc et al.*, 201, F.R.D 33 (D. Mass 2001). Thus, a schedule that contemplates the need for additional time is appropriate and reasonable.

Dispositive Motions: January 21, 2004

Hearing Date: February 21, 2005

I think that this will help us to avoid the New Mexico hearing conflicts that were of potential concern. Please advise.

See Attachment A at 6-7. Oddly, Illuminet's counsel responded that the schedule was acceptable so long as Qwest made its witnesses available for deposition in advance of the New Mexico hearing:

The dates you proposed are fine with the Complainants with one exception.

We would like either (1) the discovery cut-off advanced to September 15, which is still an extension of 6 weeks; or (2) your agreement that the Qwest deponents will be made available on mutually agreeable consecutive dates prior to September 15. We would like to take these depositions and receive transcripts well before we finalize our North Dakota testimony and I have other commitments in the subsequent weeks.

See Attachment A at 5.

Illuminet's proposed deposition dates created scheduling conflicts and appeared to be made so Illuminet's counsel could take depositions to use in the parallel New Mexico hearing. Nonetheless, to give Illuminet's counsel the benefit of the doubt, Qwest's counsel offered Complainants additional time to file their direct testimony, and to shorten Qwest's time to respond:

It is obvious that the reason you want to take these depositions is so that you have them in advance of the NM hearing. As you know, the time for taking depositions in NM has passed. As we discussed, the only two days that we could theoretically accommodate was the week of September 13, which will not really give me time to prepare my witnesses because I am in an oral argument before the

Nebraska Supreme Court on 9/9. In addition, I would like time to prepare for the NM hearing, which is set for 5 days beginning [9]/20. I would like the entirety of the week of 9/[13]² to perform this work. I strongly recommend that we hold the depositions the weeks following the NM hearing when there is substantially less pressure on everyone involved.

If this is unacceptable, I propose that we either submit alternative schedules to the ALJ or that we move your direct testimony back by one week and leave all of the other dates in place. This will only affect Qwest's time to file its responsive testimony. Is the latter acceptable? Please advise.

*See Attachment A at 5.*³ Complainants objected, and eventually recommended that the parties utilize a schedule that would cause disruption for everyone involved, and would only given Complainants two days after completion of the depositions to file their direct testimony. *See Attachment B.* This, of course, showed that Complainants real purpose was to take the depositions for use in the New Mexico hearing. The time for taking depositions in the New Mexico matter ended in February 2004. *See Attachment C at 3* Complainants are therefore trying to use this proceeding to gain discovery that they are now precluded from obtaining in New Mexico. The Commission should grant the protective order and stay the depositions.

On August 12, 2004, the Commission issued a schedule that allowed for discovery through October 8, and gave Complainants two additional weeks thereafter to file testimony. Thus, the Commission's schedule would plainly allow for depositions in late September or early October 2004, and would plainly allow more than enough time for Complainants to include references from the depositions in their testimony. Undeterred, Complainants filed three notices

² The e-mail had typographical errors that mistakenly referred to the New Mexico hearing beginning 12/20 and referred to the week of September 23. It should have read, 9/20 and September 13.

³ The schedule set by the Commission shortened Qwest's time to file responsive testimony and gave complainants additional time

of deposition to take place on September 1-2, 2004. *See Attachments D, E, and F.* Qwest hereby seeks a protective order, and asks that the Commission order Complainants to hold the depositions between September 27 and October 8, 2004.⁴

II. DISCUSSION

N. D. R. Civ. P. 26(c) empowers the Commission to enter a protective order directing the order and timing of discovery in order to, among other things, avoid undue burden or expense. The filing of this Motion should automatically stay the deposition. N. D. R. Civ. P. 37(d) states that a party's failure to appear for a deposition is not excused "unless the party failing to act has a pending motion for a protective order" The plain meaning of this rule states that a failure to appear IS excused if a party has filed a motion for protective order. As such, Qwest hereby informs the Commission and Complainants that this is how it interprets the rule, and it does not plan to present witnesses for deposition on September 1-2, 2004, unless this Motion is denied, and the Commission orders Qwest to make its witnesses available.⁵

Out of an abundance of caution, however, Qwest also asks the Commission to stay these depositions because of scheduling conflicts with Qwest's counsel and inadequate time to prepare for the depositions. On August 12, 2004, Illuminet noticed three depositions: (1) one for Qwest manager Lorel Ferrin; (2) one for retired manager Charmian Kuder, who is presently employed for a different company; and (3) one of Qwest Corporation pursuant to N. D. R. Civ. P. 30(b)(6). The Rule 30(b)(6) deposition notice advises Qwest of Illuminet's intent to inquire into 24

⁴ Qwest will reiterate its offer that it will allow Complainants to hold depositions any time in the month of October that meets the scheduling needs of the participants, even if they occur after the October 8, 2004 discovery cut-off

⁵ Qwest makes this point so Complainant's counsel does not needlessly purchase airline tickets

discrete categories, several of which contain between 2 and 12 discrete subparts. In order to accommodate Illuminet's Rule 30(b)(6) notice, Qwest anticipates that it will need significant time to prepare representative witnesses to testify on behalf of Qwest. Indeed, as noted in footnote 1, *supra*, such preparation is required for a 30(b)(6) deposition.

Upon receiving the notices on August 12, counsel for Qwest advised Illuminet's counsel of conflicts existing on September 1 and 2. Lead counsel for Qwest, Charles W. Steese, has a deposition scheduled for August 31, 2004, in St. Louis in the matter of *Storage Tech. Corp. v. Custom Hardware Engineering & Consulting, Inc.*, Case No. 02-12102 RWZ, In the United States District Court for the District of Massachusetts. While it is hoped that the deposition will only take one day, the case is exceedingly complex and depositions carry over to the following day with some frequency. The deposition notice states that the deposition is intended to continue to September 1, 2004, if not completed on August 31. Counsel for Qwest, Phillip L. Douglass, has depositions scheduled for September 1 and 2, 2004, in Denver in the matter of *Eschelon Telecom of Washington, Inc., et al. v. Qwest Corp.*, 2:03-cv-1296, in the United States District Court for the Western District of Washington at Seattle. Thus, neither Qwest attorney is available to attend the depositions on the dates Illuminet has noticed, much less prepare witnesses for those depositions. To accommodate the schedule of both parties' counsel, counsel for Qwest suggested that the depositions be rescheduled for the last week of September or the first week of October. Illuminet's counsel declined.

Illuminet's refusal to reschedule the deposition has left Qwest with no choice but to petition the Commission for relief from Illuminet's deposition notices and to stay the deposition

Illuminet's refusal to reschedule the deposition has left Qwest with no choice but to petition the Commission for relief from Illuminet's deposition notices and to stay the deposition notices until such time as the Commission can hear Qwest's motion for protective order. Qwest makes this motion in the interest of justice and not for purposes of delay. The reality, however, is that Qwest's counsel cannot be present at depositions in different matters at the same time.

III. CONCLUSION

For the foregoing reasons, Qwest respectfully requests that the Commission grant its motion for protective order, quash the depositions noticed for September 1 and 2, 2004, and direct the parties to reschedule the depositions for a mutually convenient time and location consistent with the Commission's scheduling order.

Date: August 18, 2004.

Respectfully submitted,

By: 

Charles W. Steese
Phillip L. Douglass
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1820
Denver, Colorado 80111
Telephone: (720) 200-0676

Melissa Thompson
QWEST CORPORATION
1801 California, Suite 4700
Denver, Colorado 80202
Telephone: (303) 672-2734

Attorneys for Qwest Corporation

ATTACHMENT**Chuck Steese**

From: Chuck Steese [csteese@s-elaw.com]
Sent: Friday, August 06, 2004 10:17 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

No, I do not agree. We discussed this proposal with the understanding that the hearing could be set by the Commission as early as 1/3. The schedule would have been very difficult given our respective schedules, especially for you to complete three depositions. Now that the hearing date has been set for February 21, there is simply no need for this aggressive schedule. I note, as well, that here you are willing to file your direct testimony just 2 days after any depositions will be complete thereby showing that your desire is to have depositions for the purposes of preparing for the New Mexico hearing, not for your direct testimony in North Dakota. I will propose the schedule that you agreed to in your email yesterday, and explain why I believe depositions should not occur during the time that you have requested.

Respectfully,

Chuck Steese
 Steese & Evans, P.C.
 6400 S Fiddlers Green Circle, Suite 1820
 Denver, CO 80111
 Voice 720-200-0677
 Fax: 720-200-0679
 Email csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 10:09 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

We are fine with the schedule you proposed in our telephone conversation earlier this week.

Close of discovery	9/15
Complainants Testimony	9/17
Qwest Testimony	11/17
Dispositive Motions	Thirty days prior to the hearing (1/21)
Complainants Rebuttal Testimony	12/17

Please let me know whether you will maintain your earlier position.

Respectfully,

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]

Sent: Friday, August 06, 2004 10:41 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

What schedule are you proposing?

Please advise

Chuck Steese
Steese & Evans, P.C.
6400 S. Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice: 720-200-0677
Fax: 720-200-0679
Email: csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 8:37 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

No, we are not agreed

The ALJ gave us an one month extension. Now you are trying to turn additional flexibility from the Commission given by the February hearing date into a prohibition on taking depositions for the next two months. We will give you plenty of notice of the depositions we plan to take, certainly more than the one week you gave us when you issued the North Dakota 30(b)(6) deposition notice that you intended to be taken by a colleague when you would have been on vacation.

Respectfully,

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 10:27 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred,

I am the attorney on this case. We have no local counsel. I do not know if any of our witnesses are based in North Dakota. As such, we expect depositions in Colorado, at a time when both you and I can be available. The same will be true of the one anticipated deposition I plan for Illuminet, a deposition in Overland Park, Kansas where they are located.

Are we agreed on the following schedule.

Discovery Cutoff October 8, 2004

Direct Testimony October 19, 2004

Responsive Testimony: December 14, 2004

Rebuttal Testimony: January 18, 2004

Dispositive Motions. January 21, 2004

Hearing Date February 21, 2005

Please advise As you know, we have to file the proposed schedule with the Commission today, so I would appreciate understanding

Respectfully,

Chuck Steese
Steese & Evans, P C
6400 S. Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice: 720-200-0677
Fax: 720-200-0679
Email. csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 8:04 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

At the phone conference with the ALJ, I said we were prepared to move forward with no further discovery but that if the deadline was postponed for Qwest to take depositions, then we would take depositions as well You have no right to dictate my schedule to do so You can either work with me on the dates or Qwest can send another attorney to the depositions I will notice and take in North Dakota.

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 9:57 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

I disagree. You went from saying you did not need any additional discovery when we discussed the issue before the ALJ, to saying you wanted three depositions You have not yet told me what depositions you want, however, you did tell me that one of the depositions would be a 30(b)(6) where we would have to prepare our witnesses on topics. We are willing to accommodate within reason, however, there is no reasonable way to complete three depositions with both of our schedules by September 15 Specifically You have a 10-day vacation Then, I have a week with existing depositions Then the Labor day weekend, followed by a week where I have an oral argument before the Nebraska Supreme Court. The next week is the week before we both have a week-long hearing before the NM Commission on the exact same issues It is perfectly reasonable to expect that week for preparation. I agreed to move out testimony Qwest's testimony for a week to give you one additional week to prepare your direct testimony even though you have told me that your direct case is effectively complete already Your refusing to take me up on my offer leads me to believe that the real reason you want three depositions is for

Message

the hearing in New Mexico As you know, there was a specific deadline for depositions in New Mexico that ran in February 2004. My proposal is reasonable and accommodates everyone involved There will be more than enough time to geive you the depositions you want

Are we agreed on the schedule? Can we prepare a joint pleading? Please advise

Please advise

Chuck Steese
Steese & Evans, P.C.
6400 S. Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice: 720-200-0677
Fax: 720-200-0679
Email: csteese@s-elaw.com

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From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 7:51 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

I should add that I prefer to have these depositions well before 9/15 I used the 9/15 date to try to accomodate your schedule. If we can't agree on dates I will notice the depositions for earlier

Respectfully,

Alfred

-----Original Message-----

From: Mamlet, Alfred
Sent: Friday, August 06, 2004 9:20 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

I told you and the ALJ at our telephone hearing that if the ND schedule was extended for you to take depositions, then we would take depositions of Qwest. The ALJ gave Qwest a month extension Illuminet intends to take the depositions in roughly this time frame. If you want to work with me to find mutually convenient dates before 9/15 I am willing to do so If not, we will notice the depositions in North Dakota and take them. Regardless of the ultimate discovery deadline we are not constrained to wait until the last minute to take the depositions even if that is what you prefer.

Respectfully,

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 4:34 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; pdouglass@s-elaw.com; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred.

It is obvious that the reason you want to take these depositions is so that you have them in advance of the NM hearing. As you know, the time for taking depositions in NM has passed. As we discussed, the only two days that we could theoretically accommodate was the week of September 13, which will not really give me time to prepare my witnesses because I am in an oral argument before the Nebraska Supreme Court on 9/9. In addition, I would like time to prepare for the NM hearing, which is set for 5 days beginning 12/20. I would like the entirety of the week of 9/23 to perform this work. I strongly recommend that we hold the depositions the weeks following the NM hearing when there is substantially less pressure on everyone involved.

If this is unacceptable, I propose that we either submit alternative schedules to the ALJ or that we move your direct testimony back by one week and leave all of the other dates in place. This will only affect Qwest's time to file its responsive testimony. Is the latter acceptable? Please advise.

Respectfully,

Chuck Steese
Steese & Evans, P.C.
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice: 720-200-0677
Fax: 720-200-0679
Email: csteese@s-elaw.com

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From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Thursday, August 05, 2004 12:32 PM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'
Subject: RE: SS7 Hearing Dates

Chuck,

The dates you proposed are fine with the Complainants with one exception.

We would like either (1) the discovery cut-off advanced to September 15, which is still an extension of 6 weeks, or (2) your agreement that the Qwest deponents will be made available on mutually agreeable consecutive dates prior to September 15. We would like to take these depositions and receive transcripts well before we finalize our North Dakota testimony and I have other commitments in the subsequent weeks.

Regards.

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]

Sent: Wednesday, August 04, 2004 6:28 PM

To: 'Don Negaard'; 'Mamlet, Alfred'; 'Tom Moorman'; 'Marc Paul'

Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'

Subject: RE: SS7 Hearing Dates

Don

That hearing date is fine from Qwest's perspective

Chuck Steese

Steese & Evans, P C

6400 S. Fiddlers Green Circle, Suite 1820

Denver, CO 80111

Voice: 720-200-0677

Fax: 720-200-0679

Email csteese@s-elaw.com

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From: Don Negaard [mailto:donn@srt.com]

Sent: Wednesday, August 04, 2004 4:00 PM

To: csteese@s-elaw.com; 'Mamlet, Alfred'; 'Tom Moorman'; 'Marc Paul'

Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'

Subject: Re: SS7 Hearing Dates

Chuck,

Received your proposal. I think we can work this out among the parties and submit a schedule. I think the immediate concern was to make sure the hearing date is not an impossible imposition on the parties or witnesses

----- Original Message -----

From: Chuck Steese

To: 'Don Negaard'; 'Mamlet, Alfred'; 'Tom Moorman'; 'Marc Paul'

Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'

Sent: Wednesday, August 04, 2004 4:16 PM

Subject: RE: SS7 Hearing Dates

Don, Alfred and others

In light of this hearing date, can we propose the following dates for the remainder of this docket:

Discovery Cutoff: October 8, 2004

Direct Testimony: October 12, 2004

Responsive Testimony: December 14, 2004

Rebuttal Testimony: January 18, 2004

Dispositive Motions January 21, 2004

Hearing Date: February 21, 2005

I think that this will help us to avoid the New Mexico hearing conflicts that were of potential concern. Please advise.

Thanks,

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice: 720-200-0677
Fax 720-200-0679
Email: csteese@s-elaw.com

From: Don Negaard [mailto:donn@srt.com]
Sent: Wednesday, August 04, 2004 2:57 PM
To: Chuck Steese; Mamlet, Alfred; Tom Moorman; Marc Paul
Cc: Hon. Allen C. Hoberg; Ilona A. Jeffcoat-Sacco; Binek, William W.
Subject: SS7 Hearing Dates

The PSC met today. They set a hearing date in this matter for February 21. I discussed this issue with Judge Hoberg and he suggested the parties could incorporate this hearing date into the revised schedule to be submitted for his approval.

If anyone has a problem with these dates for witnesses etc. they are to notify the PSC, Judge Hoberg and the other parties immediately.

Phil Douglass

From: Mamlet, Alfred [AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 10:09 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman', Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE SS7 Hearing Dates

Chuck,

We are fine with the schedule you proposed in our telephone conversation earlier this week

Close of discovery	9/15
Complainants Testimony	9/17
Qwest Testimony	11/17
Dispositive Motions	Thirty days prior to the hearing (1/21)
Complainants Rebuttal Testimony	12/17

Please let me know whether you will maintain your earlier position

Respectfully,

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 10:41 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

What schedule are you proposing?

Please advise

Chuck Steese
Steese & Evans, P.C.
6400 S. Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice: 720-200-0677
Fax: 720-200-0679
Email: csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 8:37 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

8/18/2004

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

ALLTEL COMMUNICATIONS OF THE)
SOUTHWEST LIMITED PARTNERSHIP,)
LAS CRUCES CELLULAR TELEPHONE)
COMPANY, ALLTEL COMMUNICATIONS)
OF NEW MEXICO, INC., AND ILLUMINET,)
INC.,)
Complainants,) Case No. 03-00102-UT
v.)
QWEST CORPORATION,)
Respondent.)

SECOND PROCEDURAL ORDER

THIS MATTER comes before the Hearing Examiner in this case on ALLTEL Communications of the Southwest Limited Partnership, Las Cruces Cellular Telephone Company, ALLTEL Communications of New Mexico, Inc., Illuminet, Inc. and Qwest Corporation's (the "Parties") Joint Motion Requesting Scheduling Conference filed on November 10, 2003. Being duly informed in the premises, the Hearing Examiner **FINDS** and **CONCLUDES**:

1. On June 3, 2003, a Procedural Order and Notice was issued in this matter setting procedural dates including a hearing for December 2, 2003.
2. On August 20, 2003, the Parties filed an unopposed Joint Motion to Temporarily Stay Case to Facilitate Settlement Discussions requesting a stay of the case until October 1, 2003, and on August 22, 2003, the Hearing Examiner issued an Order Staying Case as requested.
3. On October 1, 2003, the Parties filed an unopposed Joint Motion to Renew the Temporary Stay to Facilitate Settlement Discussions to extend the

stay through October 31, 2003, and on October 14, 2003, an Order Continuing Stay was issued as requested.

4. On November 10, 2003, the Parties filed an unopposed Joint Motion Requesting Scheduling Conference, and on November 12, 2003, the requested order was issued setting the scheduling conference for November 14, 2003.

5. The scheduling conference was attended by representatives of the Parties and the New Mexico Public Regulation Commission's ("PRC" or "Commission") Utility Division Staff ("Staff"). The Parties proposed a schedule and represented that there was no opposition to such schedule by the only intervenor in the case, the New Mexico Exchange Carriers Group ("NMECG"). Staff did not oppose the proposed schedule.

6. The proposed schedule contains no provision for intervenor testimony, and the Hearing Examiner finds the intervenor should be afforded the opportunity to file testimony.

7. The proposed schedule contains no provision for Staff or intervenor rebuttal testimony, and the Hearing Examiner finds Staff and the intervenor should be afforded the opportunity to file rebuttal testimony.

8. The proposed schedule provides for a deadline for filing motions to compel of December 2, 2003, but has a proposed discovery cut off date of May 24, 2004. The parties apparently will resolve any discovery disputes that may arise between December 2, 2003, and May 24, 2004, among themselves.

9. The proposed schedule contains a deadline for filing substantive motion, and as discussed at the scheduling conference, such deadline should not be included.

10. The proposed schedule is acceptable to the Hearing Examiner, except as noted above, and should be adopted as the procedural schedule for this matter.

It is therefore **ORDERED** as follows:

A. All motions to compel shall be filed on or before December 2, 2003. Any response to such motion to compel shall be filed on or before December 11, 2003. A hearing on any motion to compel will be held, if necessary, on December 15, 2003, at 3:00 p.m. at the offices of the Commission, Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico. The Hearing Examiner will issue a decision on any motion to compel, if necessary, on or before December 19, 2003.

B. Any supplemental production of discovery will be made on or before January 19, 2004. All depositions in this case will be conducted on or before February 23, 2004. The discovery cut off date is May 24, 2004.

C. Complainants' Direct Testimony shall be filed on or before March 8, 2004.

D. Qwest's Direct Testimony shall be filed on or before April 26, 2004.

E. Staff shall, and NMECG may, file Direct Testimony on or before May 17, 2004.

F. Qwest's Rebuttal Testimony shall be filed on or before June 7, 2003.

G. Complainants' Rebuttal Testimony shall be filed on or before June 28, 2004.

H. Staff and Intervenor may file Rebuttal Testimony on or before July 5, 2004.

I. A public hearing will begin at 10:00 a.m. on July 12, 2004, at the offices of the Commission, Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico.

J. Complainants' Post Hearing Brief and Proposed Findings of Fact and Conclusions of Law shall be filed on or before August 27, 2004.

K. Qwest's, Staff's and NMECG's Post Hearing Briefs and Proposed Findings of Fact and Conclusions of Law shall be filed on or before September 27, 2004.

L. Complainants may file a Reply Brief on or before October 12, 2004.

M. Other than the motion to compel and response thereto described in Paragraph A, above, the Complainants, Qwest, Staff and NMECG have agreed that there will be 20 days to respond to any substantive motion and 10 days to reply to any response, thereby altering the time provided by 17.1.2.12 NMAC.

N. The Complainants, Qwest, Staff and NMECG have agreed that service of all documents by the parties will be by overnight mail, e-mail and/or fax.

O. All other provisions of the Procedural Order issued June 3, 2003, remain unchanged, except as modified by this Second Procedural Order.

ISSUED this 21st day of November, 2003.

NEW MEXICO PUBLIC REGULATION COMMISSION



MARILYN S. HEBERT
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

ALLTEL COMMUNICATIONS OF THE)
SOUTHWEST LIMITED PARTNERSHIP,)
LAS CRUCES CELLULAR TELEPHONE)
COMPANY, ALLTEL COMMUNICATIONS)
OF NEW MEXICO, INC., AND ILLUMINET,)
INC.,)

Complainants,)

Case No. 03-00102-UT

v.)

Qwest Corporation,)

Respondent.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Second Procedural Order**, issued November 21, 2003, was mailed first class, postage pre-paid to each of the following:

Thomas W. Olson, Esq.
Montgomery & Andrews, PA
325 Paseo de Peralta
Santa Fe, NM 87501

Thomas J. Moorman, Esq.
Kraskin, Lesse & Cosson, LLC
2120 L Street NW, Suite 520
Washington, DC 20037

Paul M. Schudel, Esq.
Woods & Aitken LLP
301 South 13th Street, Suite 500
Lincoln, NE 68508

Mr. Larry Krajci, Manager
State Government Affairs
Alltel Communications, Inc.
One Allied Drive Mailstop 1269-B4F04-ND
Little Rock, AR 72202

Ms. Nita Taylor, Dir. Regulatory Affairs
400 Tijeras, NW, Suite 510
Albuquerque, NM 87102

Mr. Richard Wolf
Director, VTS Policy and Regulatory
Illuminet, Inc.
P.O. Box 2909
Olympia, WA 98507

William P. Templeman, Esq.
P.O. Box 669
Santa Fe, NM 87504-0669

Jeffrey Albright, Esq.
Jontz, Dawe, Gulley & Crown, PC
P.O. Box 1027
Albuquerque, NM 87103-1276

Charles W. Steese, Esq.
Sandra L. Potter, Esq.
6400 S. Fiddlers Green Circle – Ste 1820
Denver, CO 80111

Mr. Danny Oberg
VeriSign Telecommunications Services
P.O. Box 2909
Lacey, WA 98507

Wendy Wheeler
Alltel Communications, Inc.
11333 North Scottsdale, Suite 200
Scottsdale, AZ 85254

Mr. Steve R. Mowery
Alltel Communications, Inc.
One Allied Drive
Little Rock, AK 72202

Mr. Andrew Carey
Staff Manager – External Affairs
Alltel Communications, Inc.
11333 N. Scottsdale Road, Suite 200
Scottsdale, AZ 85254

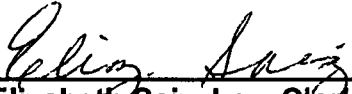
and hand-delivered to:

Nancy Burns, Esq.
NM Public Regulation Commission
224 East Palace Avenue
Santa Fe, NM 87501

Alicia Bernal
NM Public Regulation Commission
224 East Palace Avenue – Marian Hall
Santa Fe, NM 87501

Dated this **21st** day of November, 2003.

NEW MEXICO PUBLIC REGULATION COMMISSION



Elizabeth Saiz, Law Clerk

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

Case No. PU-2829-03-83

ILLUMINET, INC.'S NOTICE OF DEPOSITION OF RESPONDENT QWEST CORPORATION

Please take notice that, pursuant to N.D. R. Civ. P. Rule 30(b)(6), Complainant Illuminet, Inc. ("Illuminet") will take the deposition of Respondent Qwest Corporation ("Qwest") on September 2, 2004 at 8:30 a.m., at the law offices of Gorsuch Kirgis LLP, Tower I, Suite 1000, 1515 Arapahoe Street, Denver, Colorado 80202, regarding the matters designated below. The deposition will be conducted before a court reporter authorized pursuant to N.D. R. Civ. P. Rule 28 and will be recorded stenographically. If not completed on the day specified above, Illuminet will continue Qwest's deposition from day to day (weekends and holidays

excepted) until completed.

Please also take notice that the deponent Qwest is requested to produce, at the time and place set out above for its deposition, all documents relating to or pertaining to the matters designated below.

Pursuant to N.D. R. Civ. P. Rule 30(b)(6), Qwest must designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf regarding the matters designated below:

1. All details, discussions, and communications relating to Qwest's decision to amend its North Dakota Access Service Price Schedule, effective July 31, 2001 ("North Dakota SS7 Tariff Revision"), which is at issue in this proceeding.
2. All details, discussions, and communications relating to Qwest's decision to file tariff amendments similar to the North Dakota SS7 Tariff Revision in other states within its region.
3. All details, discussions, and communications relating to Qwest's decision to withdraw those similar tariff amendments (referenced in Matter No. 2 above) from the states of Arizona, Minnesota, Utah, and Washington.
4. All details, discussions, and communications relating to Qwest's decision to file a revision to its North Dakota SS7 Tariff Revision, specifically the amended Section 15—Common Channel Signaling Network, to take effect on July 21, 2003 ("POM Tariff").
5. All discussions and communications by Qwest with its customers, other than

- complainants in this proceeding, regarding the litigation, dispute, or implementation of the North Dakota SS7 Tariff Revision or any similar tariff amendment in another state.
6. All discussions and communications by Qwest with state regulatory officials of any state regarding the litigation, dispute, or implementation of the North Dakota SS7 Tariff Revision or any similar tariff amendment in another state.
 7. All facts supporting Qwest's assertion in its Answer to the Complaint that "federal law contemplates local exchange carriers charging different rates for SS7 through a tariff to non-carriers such as Illuminet than the rates charged to carriers under interconnection or infrastructure sharing agreements."
 8. The nature, scope, rates, terms and conditions of Qwest's past and current contractual/tariff relationships with Illuminet, and the negotiations relating to such contractual/tariff relationships.
 9. The nature, scope, rates, terms and conditions of Qwest's approved SGAT in North Dakota insofar as it relates to signaling and reciprocal compensation.
 10. The content, nature, scope, rates, terms and conditions of Qwest's North Dakota and FCC SS7 Tariffs, including but not limited to Qwest's CCEAC product.
 11. Interconnection Agreements and Amendments to Interconnection Agreements between Qwest and Illuminet's carrier customers (including but not limited to Complainants), including but not limited to whether the parties to such agreements intended to include messages as part of reciprocal compensation.

- a. All provisions of the contract(s) that support/fail to support the position that reciprocal compensation rates include a signaling component.
 - b. All provisions of the contract(s) that support/fail to support the position that the reciprocal compensation or bill-and-keep provisions of the contract(s) intended to include the exchange of signaling messages.
12. All infrastructure sharing agreements between Qwest and Illuminet's carrier customers, including but not limited to whether the parties to such agreements intended to include SS7 messages within existing EAS rates or other rate elements. Without limitation of the foregoing, include:
 - a. Any arrangements for meet point billing arrangements under any toll services agreements or other toll sharing arrangements; and
 - b. Any arrangements for facilities-sharing or leasing between Qwest and any of the Complainants.
13. All meetings, discussions or other events between Qwest and Illuminet, wherein signaling, signaling services, SS7, or unbundling signaling was discussed.
14. All meetings, discussions or other events between Qwest and its customers (including but not limited to Complainants), wherein signaling, signaling services, SS7, or unbundling signaling was discussed.
15. All meetings, discussions or other events between Qwest and its customers (including but not limited to the Complainants), wherein any of the following or related topics were discussed:
 - a. Notice and/or implementation of Qwest's North Dakota SS7 Tariff Revision (or any equivalent state tariff) or Qwest's ICC Tariff;

- b. ISUP messages;
 - c. Filing of the North Dakota SS7 Tariff Revision (or any equivalent state tariff) or Qwest's FCC Tariff;
 - d. The impact of these Tariffs on Illuminet's carrier customers (including but limited to Complainants);
 - e. Whether Illuminet is acting as an agent for its carrier customers (including but not limited to Complainants); and
 - f. Whether the reciprocal compensation or bill-and-keep provisions of any contract govern the signaling messages in issues in this case.
16. All meetings, discussions or other events between Qwest and Illuminet wherein any of the following or related topics were discussed:
- a. Qwest's North Dakota SS7 Tariff Revision or any equivalent state tariff;
 - b. Qwest's equivalent FCC Tariff;
 - c. ISUP messages;
 - d. Timing for filing the North Dakota SS7 Tariff Revision or any equivalent state tariff;
 - e. The impact of these Tariffs on Illuminet's customers (including but not limited to Complainants);
 - f. The charges to be billed under the North Dakota SS7 Tariff Revision or any equivalent state tariff;
 - g. Whether Illuminet is acting as an agent for its carrier customers (including but not limited to Complainants);
 - h. The manner in which Illuminet can act as an agent for its carrier customers;

- i. The reason why Illuminet could not obtain an interconnection agreement;
 - j. PIU factors from the North Dakota SS7 Tariff Revision (or any equivalent state tariff) or Qwest's FCC Tariff;
 - k. The reason why Illuminet could not order services from its carrier customers' contracts; and
 - l. The financial impact of the North Dakota SS7 Tariff Revisions or any equivalent state tariff on Illuminet and its carrier customers.
17. Internal discussions or discussions with any third party relating to whether the reciprocal compensation or bill-and-keep provisions of any contract govern the signaling messages in issue in this case.
18. Any meetings, discussions or other events between Qwest and any regulatory body concerning the following:
 - a. Whether Illuminet is an agent of its carrier customers (including but not limited to Complainants);
 - b. Whether Qwest provided Illuminet or its carrier customers (including but not limited to Complainants) with notice of its filing the North Dakota SS7 Tariff Revision.
 - c. Whether the North Dakota SS7 Tariff Revision (or any equivalent state tariff) or Qwest's FCC Tariff should apply to all forms of traffic, including but not limited to local traffic.
19. Details of how Qwest's North Dakota SS7 Tariff Revision and FCC Tariff were approved or otherwise allowed to go into effect.
20. All details relating to invoices Qwest has issued to its customers (including but not

limited to Complainants), including but not limited to amounts billed, correspondence, demand letters, payment history, waiving of charges, and refusals to pay.

21. Charges relating to the amount of Qwest's signaling charges to Illuminet in the state of North Dakota.
22. The basis for Qwest's position on whether SS7 signaling is an interstate service or intrastate service.
23. The basis for the assertions set forth in Qwest's Answer to the Complaint.
24. The basis for the affirmative defenses set forth in Qwest's Answer to the Complaint.

Dated this 12th day of August, 2004

STEPTOE & JOHNSON LLP



By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Tel (202) 429-3000
Fax (202) 429-3902

KRASKIN, MOORMAN & COSSON, LLC

By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
Tel (202) 296-8890
Fax (202) 296-8893

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing ILLUMINET, INC.'S NOTICE OF DEPOSITION OF RESPONDENT QWEST CORPORATION was served on the 12th day of August, 2004, on the following by the indicated methods:

Charles W. Steese
STEESE & EVANS, P.C.
6400 South Fiddlers Green, Suite 1820
Denver, CO 80111

Attorneys for Respondent Qwest Corporation

By Facsimile and Federal Express

Don Negaard
Pringle & Herigstad, P.C.
2525 Elk Drive
Minot, ND 58701

Attorneys for Complainants North Dakota
Independent Telephone Group and
Dakota Carrier Network, LLC.

By U.S. Mail

STEPTOE & JOHNSON LLP



By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Tel (202) 429-3000
Fax (202) 429-3902

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

Case No. PU-2829-03-83

ILLUMINET, INC.'S NOTICE OF DEPOSITION OF LOREL FERRIN

Please take notice that, pursuant to N.D. R. Civ. P. Rule 30, Complainant Illuminet, Inc. ("Illuminet") will take the deposition of Lorel Ferrin on September 1, 2004 at 8:30 a.m., at the law offices of Gorsuch Kirgis LLP, Tower I, Suite 1000, 1516 Arapahoe Street, Denver, Colorado 80202. The deposition will be conducted before a court reporter authorized pursuant to N.D. R. Civ. P. Rule 28 and will be recorded stenographically. If not completed on the day specified above, Illuminet will continue the deposition from day to day (weekends and holidays excepted) until completed.

Dated this 12th day of August, 2004

STEPTOE & JOHNSON LLP



By: Alfred G. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Tel (202) 439-3000
Fax (202) 439-3902

KRASKIN, MOORMAN & COSSON, LLC

By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
Tel (202) 236-8890
Fax (202) 236-8893

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing ILLUMINET, INC.'S NOTICE OF DEPOSITION OF LOREL FERRIN was served on the 12th day of August, 2004, on the following by the indicated methods:

Charles W. Steese
Steese & Evans, P.C.
6400 South Fiddlers Green, Suite 1820
Denver, CO 80111

Attorneys for Respondent Qwest Corporation

By Facsimile and Federal Express

Don Negaard
Pringle & Herigstad, P.C.
2525 Elk Drive
Minot, ND 58701

Attorneys for Complainants North Dakota
Independent Telephone Group and
Dakota Carrier Network, LLC.

By U.S. Mail

STEPTOE & JOHNSON LLP



By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Tel (202) 429-3000
Fax (202) 429-3902

CERTIFICATE OF SERVICE

I do hereby certify that on this 18th day of August, 2004, I caused a copy of the foregoing QWEST CORPORATION'S MOTION FOR PROTECTIVE ORDER AND STAY OF SEPTEMBER 1-2, 2004 DEPOSITIONS to be served on the following:

Ms. Illona Jeffcoat – Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

Via Electronic Filing and Federal Express

Don Negaard
Pringle & Herigstad, P.C.
Attorney for LEC & DCN
2525 Highway 2 & 52 Bypass
P.O. Box 1000
Minot, ND 58702-1000
Fax: 701.857.1361

Via U. S. Mail

Thomas J. Moorman
Kraskin, Moorman & Cosson, LLC
Attorneys for Illuminet, Inc
2120 L Street, N.W.,
Suite 520
Washington, D.C. 20037
Fax: 202.296.8893

Via U. S. Mail

Alfred M. Mamlet and Marc A. Paul
Steptoe & Johnson, LLP
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Fax: 202.429.3902

Via Federal Express

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505
Fax: 701.328.2410

Via U. S. Mail



Theresa L. Davidson

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing ILLUMINET, NC.'S NOTICE OF DEPOSITION OF CHARMIAN KUDER was served on the 12th day of August, 2004, on the following by the indicated methods:

Charles W. Steese
Steese & Evans, P.C.
6400 South Fiddlers Green, Suite 1820
Denver, CO 80111

Attorneys for Respondent Qwest Corporation

By Facsimile and Federal Express

Don Negaard
Pringle & Herigstad, P.C.
2525 Elk Drive
Minot, ND 58701

Attorneys for Complainants North Dakota
Independent Telephone Group and
Dakota Carrier Network, LLC.

By U.S. Mail

STEPTOE & JOHNSON LLP



By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington D.C. 20036
Tel (202) 49-3000
Fax (202) 49-3902

Dated this 12th day of August, 2004

STEPTOE & JOHNSON LLP



By: Alfred M. Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington D.C. 20036
Tel (202) 499-3000
Fax (202) 499-3902

KRASKIN, MOORMAN & COSSON, LLC

By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N.W., Suite 520
Washington D.C. 20037
Tel (202) 296-8890
Fax (202) 296-8893

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

Case No. PU-2829-03-83

ILLUMINET, INC.'S NOTICE OF DEPOSITION OF CHARMIAN KUDER

Please take notice that, pursuant to N.D. R. Civ. P. Rule 30, Complainant Illuminet, Inc. ("Illuminet") will take the deposition of Charmian Kuder on September 1, 2004 at 1:00 p.m., at the law offices of Gorsuch Kirgis LLP, Tower I, Suite 1000, 4515 Arapahoe Street, Denver, Colorado 80202. The deposition will be conducted before a court reporter authorized pursuant to N.D. R. Civ. P. Rule 28 and will be recorded stenographically. If not completed on the day specified above, Illuminet will continue Ms. Kuder's deposition from day to day (weekends and holidays excepted) until completed.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

AFFIDAVIT OF SERVICE BY ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **13th day of August, 2004**, she deposited in the United States Mail, Bismarck, North Dakota, **seven** envelopes with ordinary postage, fully prepaid, securely sealed and each containing a photocopy of:

Second Amended Scheduling Order

The envelopes were addressed as follows:

Don Negaard
Pringle & Herigstad
P O Box 1000
Minot ND 58702-1000

Alfred M. Mamlet
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

Thomas J Moorman
Kraskin Lesse & Cosson LLC
2120 L St NW Ste 520
Washington D C 20037

Marc A. Paul
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

Melissa Thompson
Qwest Corporation
1801 California, 49th Floor
Denver, CO 80202

Phil Douglass
Steese & Evans, PC
6400 South Fiddlers Green Circle, Suite
1820
Denver, CO 80111

Scott Macintosh
Qwest Corporation
P. O. Box 5508
Bismarck, ND 58502-5508

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Janece L. Scott

Subscribed and sworn to before me
this 13th day of August, 2004.

Shelly A Bauske

Notary Public

SEAL





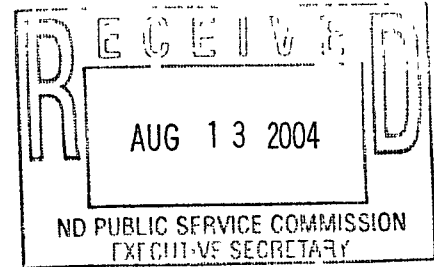
OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

August 12, 2004



Ms. Ilona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Re: BEK Communications Cooperative, *et al* vs. Qwest Communications
Public Service Commission Case No PU-2829-03-83
OAH File No. 20030206

Dear Ms Jeffcoat-Saco:

Enclosed is the original Second Amended Scheduling Order signed by me in regard to the captioned matter. Please serve it on the appropriate parties involved. I have retained a copy for my file.

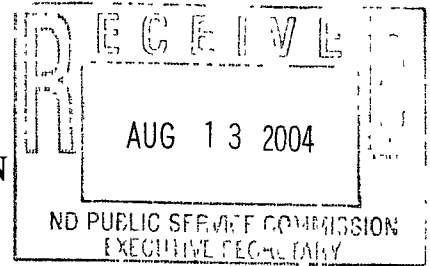
Sincerely,

Allen C. Hoberg
Administrative Law Judge

fz
Encl.

cc: Sandi Scott, PSC

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**



IN THE MATTER OF:)
)
 BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Griggs)
 County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc., West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

Case No. PU-2829-03-83

**SECOND AMENDED
SCHEDULING ORDER**

OAH File No. 20030206

.....

On July 22, 2004, the hearing officer issued a Prehearing Order in this matter. In it he required the parties to submit a Second Amended Scheduling Order. In it he said that “[i]f the parties are unable to agree on dates for all of the specific items listed in the Second Amended Scheduling Order by ... August 6, 2004, the ALJ will impose dates.”

On or about August 6, 2004, the hearing officer received “Qwest’s Notice of Proposed Scheduling Order per Commission Order Dated July 28, 2004” and Qwest’s proposed “Commission Scheduling Order.” On or about August 6, 2004, the hearing officer received a

“Proposed Second Amended Scheduling Order” from the Complainants. The hearing officer took the matter under advisement and now issues the following Second Amended Scheduling Order in this matter.

For purposes of this scheduling order, "filing" means that the party required to file a document will actually have the original of the filed document in the Public Service Commission's office no later than 5:00 p.m. on the required filing date. If no filing date is required but a time limit for filing is provided (*e.g.*, “no later than thirty (30) days after..”) the party required to file a document will actually have the original of the filed document in the Public Service Commission’s office no later than 5:00 p.m. on the last day of the required time limit. Compliance with the filing requirement is met if the document is filed via fax or electronically with the Commission, provided that the document is also filed within three (3) days of the fax or electronic filing by means of a hard copy being actually in the Commission's office through the U.S. mail or similar alternative carrier. Filing a document also requires that all of the other parties and the hearing officer have a copy of the filed document on the same day that the document is filed with the Commission. Again, compliance with the filing requirement with regard to other parties is met if the document is filed via fax or electronically, provided that the document is also filed within three (3) days of the fax or electronic filing by means of a hard copy being actually in the parties hands through the U.S. Mail or similar alternative carrier. The required days for filing shall be calendar days unless otherwise stated.

1. Discovery.

The parties have begun discovery. Discovery will be conducted in accordance with N.D.C.C. Chapter 28-32, N.D. Admin. Code article 98-02, and N.D. Admin. Code article 69-02, except that motions to compel discovery will be governed by paragraph 2 below.

No discovery will be conducted after October 8, 2004.

2. Motions to compel.

To the extent a motion to compel is necessary to discover information that a party believes to be relevant information, the party may file a written motion to compel. Responses to motions to compel shall be filed within five (5) business days of filing of the motion. If desired, a party may file a reply brief within three (3) business days of the filing of the response.

3. Dispositive motions.

Dispositive motions must be filed no later than January 21, 2005. Response briefs must be filed no later than February 4, 2005, and any reply brief must be filed no later than February 11, 2005.

4. Pre-filed testimony.

Complainants will file their pre-filed testimony no later than October 19, 2004. Qwest will file its pre-filed responsive testimony no later than November 26, 2004. Complainants will file their pre-filed rebuttal testimony no later than December 21, 2004

5. Hearing date.

The hearing is scheduled to be held on February 21-25, 2005. A notice of hearing will be issued by the Public Service Commission as soon as possible.

6. Post-hearing briefs.

Simultaneous post-hearing briefs, proposed findings of fact and conclusions of law, and a proposed order shall be filed by the parties no later than thirty (30) days after the transcript of the hearing is available to the parties. Simultaneous post-hearing reply briefs shall be filed no later than fourteen (14) days after the filing of post-hearing briefs.

Requests for reasonable extension of any of the deadlines in this scheduling order may be granted by the hearing officer upon a showing of good cause for granting the extension.

The parties need not serve the hearing officer or Commission staff with discovery documents, unless a request to conduct discovery, motion to compel, or other request or motion requiring a response from the hearing officer is made.

Dated at Bismarck, North Dakota, this 12th day of August, 2004.

State of North Dakota
Public Service Commission

By:



Allen C. Hoberg, Hearing Officer
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701) 328-3260

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc.,)
)
Complainants,)
vs.)
)
Qwest Communications,)
)
Respondent.)

Case No. PU-2829-03-83

**CERTIFICATE
OF SERVICE**

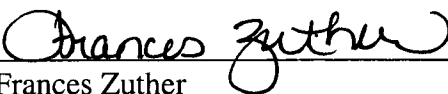
OAH File No. 20030206

.....

The undersigned certifies that the original **SECOND AMENDED SCHEDULING ORDER** was mailed, inside mail, at the State Capitol, on 12th day of August, 2004, to:

Illona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge



Frances Zuther

DONALD A NEGAARD
JAMES E NOSTDAHL
CAROL K LARSON
DAVID J HOGUE
REED A SODERSTROM
BRENT M OLSON
DEBRA L HOFFARTH
SCOTT M KNUDSVIG
ERIKA L SLEGER

PH
LAW OFFICES OF
PRINGLE & HERIGSTAD, P.C.

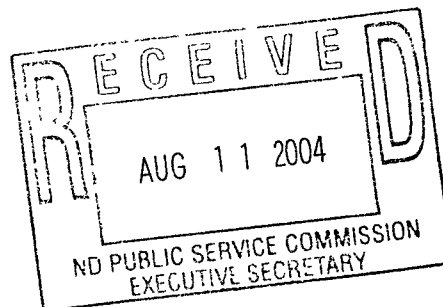
2525 ELK DRIVE
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702
(701) 852-0381
FAX (701) 857-1361
E-mail pringle@srt.com

OF COUNSEL
HERBERT L MESCHKE

RETIRED
THOMAS A WENTZ
MARK F PURDY
JAN M SEBBY

ROGER O HERIGSTAD
(1919-2003)

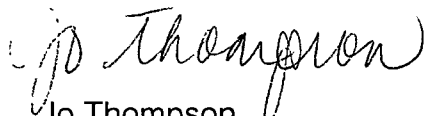
August 10, 2004



Illona A Jeffcoat-Sacco, Executive Secretary
PUBLIC SERVICE COMMISSION
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS
CASE NO. PU-2829-03-83**

Enclosed for filing in the above-captioned matter is the signed original Proposed Second Amended Scheduling Order. An electronic version of this was filed on Friday, August 6, 2004.

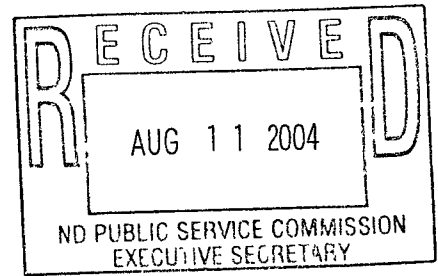

Jo Thompson
Secretary to Don Negaard

Enclosure

cc/enc Allen C Hoberg, Administrative Law Judge (OAH File No 20030206)

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
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 Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)



Case No. PU-2829-03-83

PROPOSED SECOND AMENDED SCHEDULING ORDER

BEK Communications Cooperative, Consolidated Telcom, Dakota Central
 Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County Telephone
 Company, Inter-Community Telephone Company, LLC, Midstate Telephone Company, Midstate
 Communications, Inc., Moore & Liberty Telephone Company, North Dakota Telephone Company,
 Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation,

Reservation Telephone Cooperative, SRT Communications, Inc., Turtle Mountain Communications, Inc , United Telephone Mutual Aid Corporation, West River Telecommunications Cooperative (all hereinafter referred to as "LEC Complainants and ITC"), Dakota Carrier Network, L.L.C. ("DCN"), and Illuminet, Inc. ("Illuminet") (collectively "Complainants") hereby submit this Proposed Second Amended Scheduling Order.

Discovery was originally slated to close on July 30, 2004. Having taken no depositions in this proceeding, Qwest asked for a two month extension to take depositions. Complainants asked that the hearing officer maintain the long-established schedule. Illuminet further took the position that if the schedule were extended it would also take depositions.

On July 22, 2004, the Administrative Law Judge split the difference between the *status quo* and a two month extension by extending the schedule in this matter by one month and ordering the parties to submit a Second Amended Scheduling Order "which accommodates this overall one month extension to the satisfaction of the parties." Pre-Hearing Order (Case No PU-2829-03-83) at 2 (July 22, 2004).

Qwest originally proposed the schedule below in a telephone conference with Illuminet's lawyer on August 4, 2004.

Close of Discovery	September 15, 2004
Complainants Initial Testimony	September 17, 2004
Qwest Rebuttal Testimony	November 17, 2004
Complainants Rebuttal Testimony	December 17, 2004
Dispositive Motions	January 21, 2005
Hearing	February 21, 2005

Posthearing Briefs	30 calendar days after hearing transcripts are available
Posthearing Reply Briefs	14 calendar days after filing of the post-hearing briefs

While preferring a tighter schedule, Complainants are prepared to work with this schedule. However, Complainants have a strong preference to avoid additional delays and lengthening of the schedule. Complainants would like to have all the discovery completed as soon as possible and reluctantly agree to the September 15 deadline set out above, which is six weeks longer than the original July 30 deadline. Complainants would also like all testimony submitted prior to the year-end holidays.

Complainants respectfully request that the Administrative Law Judge adopt the procedural schedule above. Although this proposed procedural schedule was originally proposed by Qwest, it is Complainants' understanding that Qwest no longer finds this schedule acceptable and will be proposing a schedule that extends the deadlines for the parties well-beyond the one month extension contemplated by the Administrative Law Judge. Complainants respectfully submit that the resolution of the competing procedural schedules favor the more expeditious and efficient schedule noted above.

In discussions about the proposed procedural schedule, Qwest has made it clear to Complainants that it will not accommodate Complainants' proposed depositions of Qwest personnel prior to the last week before its proposed discovery cut-off of October 8th. As a result, Complainants would need to wait close to two months to take the depositions of Qwest's personnel. To the extent that the Administrative Law Judge declines to adopt Complainants' proposed procedural schedule and favors the schedule proposed by Qwest, Complainants request

that the Administrative Law Judge make it clear that the discovery deadline is just that. Either party can take depositions anytime before the deadline subject to providing reasonable notice as required by the rules. Complainants respectfully request the Board adopt the procedural schedule above.

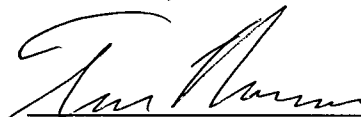
Dated this 6th day of August, 2004.

PRINGLE & HERIGSTAD, P.C.



By: Don Negaard, ND Bar ID #03598
Attorneys for Complainants,
LECs and DCN
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381
Fax (701) 857-1361

KRASKIN, MOORMAN & COSSON, LLC



By: Thomas J. Moorman
Attorneys for Illuminet, Inc.
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
(202) 296-8890
Fax (202) 296-8893

STEPTOE & JOHNSON, LLP

By: Alfred M Mamlet and Marc A. Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000
Fax (202) 429-3902

that the Administrative Law Judge make it clear that the discovery deadline is just that Either party can take depositions anytime before the deadline subject to providing reasonable notice as required by the rules. Complainants respectfully request the Board adopt the procedural schedule above.

Dated this 6th day of August, 2004


PRINGLE & HERIGSTAD, P C

By. Don Negaard, ND Bar ID #03598
Attorneys for Complainants,
LECs and DCN
2525 Elk Drive
P O. Box 1000
Minot, ND 58702-1000
(701) 852-0381
Fax (701) 857-1361

KRASKIN, MOORMAN & COSSON, LLC

By: Thomas J. Moorman
Attorneys for Illuminet, Inc
2120 L Street, N W , Suite 520
Washington, D C 20037
(202) 296-8890
Fax (202) 296-8893

STEPTOE & JOHNSON, LLP

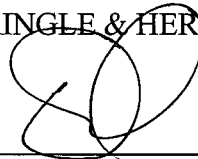

By: Alfred M. Mamlet and Marc A Paul
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000
Fax (202) 429-3902

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing COMPLAINANTS' PROPOSED SECOND AMENDED SCHEDULING ORDER was served by mail on the 6th day of August, 2004, on the following:

Charles W. Steese
STEESE & EVANS, P.C.
6400 South Fiddlers Green, Suite 1820
Denver, CO 80111

PRINGLE & HERIGSTAD, P.C.



By: Don Negaard, ND Bar ID #03598
Attorneys for Complainants,
LECs and DCN
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381
Fax (701) 857-1361

S T E E S E & E V A N S , P . C .

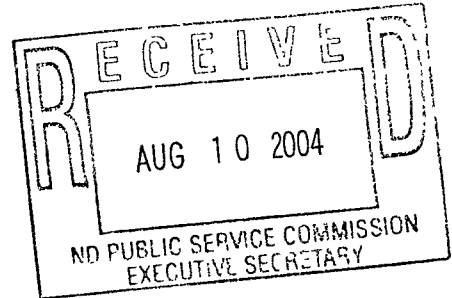
6400 South Fiddlers Green Circle, Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679
www s-elaw com

Theresa L Davidson (720) 200-0676
tdavidson@s-elaw com

August 6, 2004

Via U.S. Mail
and Electronic Mail

Ms. Illona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505



Re: ITC Group v. Qwest Corp., NDPSC Case No. PU-2829-03-83

Dear Ms. Jeffcoat-Sacco:

Enclosed, please find Qwest's Notice of Proposed Scheduling Order Per Commission Order Dated July 28, 2004 for the above-referenced case number. Should you have any questions or concerns, please do not hesitate to call. The original document has been sent via standard mail.

Very truly yours,



Theresa L. Davidson
Legal Assistant to Chuck Steese

Enclosures

cc: Thomas J. Moorman (*via U. S Mail*)
Don Negaard (*via U. S Mail*)
Alfred M. Mamlet (*via U. S Mail*)
Marc Paul (*via U. S Mail*)
William W. Binek (*via U. S Mail*)
Chuck Steese (*via Electronic Mail*)
Phil Douglass (*via Electronic Mail*)

81 PU-2829-03-83

Pages 1

Cover letter re Notice of Proposed
Scheduling Order
by Qwest Corporation by

08/10/2004

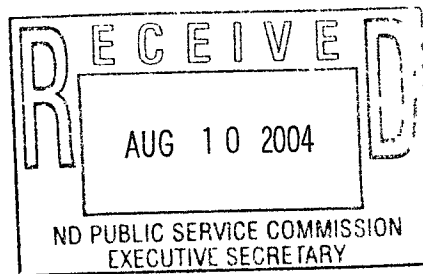
C Comm Legal PUD (3) Mike ALJ

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative,)
 SRT Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc.,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent.)

CASE NO. PU-2829-03-83



**QWEST'S NOTICE OF PROPOSED SCHEDULING ORDER PER
 COMMISSION ORDER DATED JULY 28, 2004**

Qwest hereby submits its proposed schedule for the remainder of the case. Counsel have worked together in an attempt to set a schedule, but have been unsuccessful for reasons Qwest will set forward below. Now that the Commission has tentatively set a hearing for February 21, 2004, Qwest respectfully requests that the Administrative Law Judge ("ALJ") set the schedule recommended by Qwest.

I. Procedural Background

On July 21, 2004, the ALJ held a procedural conference to discuss whether to grant Qwest's oral request to extend the schedule. Qwest explained that a substantial delay had prevented it from obtaining documents until late June 2004, and therefore requested a two month extension. The ALJ agreed to extend the schedule by one month, and stated that the hearing will be set after January 1, 2005. The ALJ also stated that if the parties are unable to agree on a schedule that the ALJ will set dates.

II. Facts Establishing that Qwest's Schedule Should be Set

On August 4, 2004, undersigned counsel and Alfred Mamlet for Illuminet discussed setting a schedule for the remainder of this case. In these discussions, undersigned counsel represented that he intended to take at least one Rule 30(b)(6) deposition, and Mr. Mamlet represented that he planned to take three depositions including one Rule 30(b)(6) deposition.¹ The parties also disclosed dates that posed problems. Specifically:

Problematic Date	Reason
August 11-12, 2004	Depositions for Steese
August 18-27, 2004	Vacation for Mamlet
August 31, 2004	Deposition for Steese
September 3, 2004	Church retreat for Steese
September 6, 2004	Labor Day
September 8-9, 2004	Oral argument before Nebraska Supreme Court for Steese
September 20-24, 2004	5-Day Hearing before the New Mexico Supreme Court for both lawyers

¹ Qwest points out that Rule 30(b)(6) depositions take additional time for preparation. Witnesses are required to perform research and prepare themselves to testify as a corporate representative. *See, e.g., Calzaturificio S C A R P A v Fabiano Shoe Company, Inc et al*, 201, F R D 33 (D. Mass 2001). Thus, a schedule that contemplates the need for additional time is appropriate and reasonable.

Nonetheless, given the ALJ's decision that a hearing could be set as early as January 3, the parties had no choice but to try and work in depositions the week before the New Mexico hearing, and do their best to make the situation work. During the call, the parties discussed an aggressive schedule to meet an early hearing date. Mr. Mamlet identified potential problems with the schedule discussed during the telephone call arising from conflicts with the New Mexico hearing and post-hearing briefing in New Mexico. No agreement concerning the schedule was reached on the call, and the parties agreed to discuss various issues with their clients including whether a hearing date was truly anticipated for as early as January 3, 2005.

Later on August 4, 2004, however, the parties received word that the Commission wanted to hold the hearing on February 21, 2005 thereby creating breathing room that the parties did not believe they had. No one has identified any problems with the proposed hearing date.

As a result of the Commission's proposed hearing date, undersigned counsel circulated an email that stated:

In light of this hearing date, can we propose the following dates for the remainder of this docket:

Discovery Cutoff: October 8, 2004

Direct Testimony: October 12, 2004

Responsive Testimony: December 14, 2004

Rebuttal Testimony: January 18, 2004

Dispositive Motions: January 21, 2004

Hearing Date: February 21, 2005

I think that this will help us to avoid the New Mexico hearing conflicts that were of potential concern. Please advise.

See Attachment. This proposed schedule alleviated everyone's stated concerns in the telephone call where the parties had attempted, without success, to reach an accord on the schedule.

Illuminet's counsel responded that the schedule was acceptable so long as Qwest made its witnesses available for deposition in advance of the New Mexico hearing:

The dates you proposed are fine with the Complainants with one exception.

We would like either (1) the discovery cut-off advanced to September 15, which is still an extension of 6 weeks; or (2) your agreement that the Qwest deponents will be made available on mutually agreeable consecutive dates prior to September 15. We would like to take these depositions and receive transcripts well before we finalize our North Dakota testimony and I have other commitments in the subsequent weeks.

See Attachment. Thus, Complainants agreed to the schedule but asked for depositions the week of September 13, the week before the New Mexico hearing.

Illuminet's proposed deposition dates created the exact problem for Qwest that had existed before – taking depositions the week before a week long hearing when undersigned counsel should be preparing for the hearing. This request also appeared to be made so Illuminet's counsel could take depositions to use in the parallel New Mexico hearing. Nonetheless, to give Illuminet's counsel the benefit of the doubt, Qwest's counsel offered to give Complainants additional time to file their direct testimony, and to shorten Qwest's time to respond:

It is obvious that the reason you want to take these depositions is so that you have them in advance of the NM hearing. As you know, the time for taking depositions in NM has passed. As we discussed, the only two days that we could theoretically accommodate was the week of September 13, which will not really

give me time to prepare my witnesses because I am in an oral argument before the Nebraska Supreme Court on 9/9. In addition, I would like time to prepare for the NM hearing, which is set for 5 days beginning 12/20. I would like the entirety of the week of 9/13² to perform this work. I strongly recommend that we hold the depositions the weeks following the NM hearing when there is substantially less pressure on everyone involved.

If this is unacceptable, I propose that we either submit alternative schedules to the ALJ or that we move your direct testimony back by one week and leave all of the other dates in place. This will only affect Qwest's time to file its responsive testimony. Is the latter acceptable? Please advise

See Attachment. Complainants objected, and eventually recommended that the parties revert back to a schedule that would cause disruption for everyone involved, and would only give Complainants two days after completion of the depositions to file their direct testimony.³ *See Attachment.* This, of course, showed that Complainants real purpose was to take the depositions for use in the New Mexico hearing.

Qwest's schedule provides the parties with two full weeks for depositions after the New Mexico hearing is completed where no one has a scheduling conflict. Moreover, Qwest is more than willing to allow Complainants to take depositions during the remainder of October 2004 – after the discovery deadline has passed – if this facilitates the needs of the parties. However, a schedule should not be set that is impossible to meet, and that is set to benefit a party in alternative litigation.

² The e-mail had a typographical error that mistakenly said the week of September 23. It should have read, September 13.

³ Illuminet's counsel also threatened to notice depositions for dates that did not work with undersigned counsel's schedule, and to hold them in North Dakota, rather than where the witnesses are located, as a penalty for Qwest not agreeing to their proposal. *See Attachment.* Undersigned counsel has been working on these issues for over one year, and is uniquely qualified to take and defend these depositions. Such tactics should not be condoned.

III. Conclusion

Qwest respectfully requests that the ALJ set the schedule proposed by Qwest.

Qwest attaches a proposed form of order for convenience.

Respectfully submitted,

By: 

Charles W. Steese
Phillip L. Douglass
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1820
Denver, Colorado 80111
Telephone: (720) 200-0676

Melissa Thompson
QWEST CORPORATION
1801 California, Suite 4700
Denver, Colorado 80202
Telephone: (303) 672-2734

Attorneys for Qwest Corporation

Direct Testimony: October 19, 2004

Responsive Testimony: December 14, 2004

Rebuttal Testimony: January 18, 2004

Dispositive Motions: January 21, 2004

Hearing Date: February 21, 2005

The parties shall work together in good faith to schedule depositions at a time convenient to all persons involved, and at the location where the witness deposed is located.

Dated: _____

CERTIFICATE OF SERVICE

I do hereby certify that on this 6th day of August, 2004, I caused a copy of the foregoing QWEST'S NOTICE OF PROPOSED SCHEDULING ORDER PER COMMISSION ORDER DATED JULY 28, 2004 to be electronically filed with:

Ms. Illona Jeffcoat – Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

and to be served via U.S. mail, first class postage prepaid, on the following:

Don Negaard
Pringle & Herigstad, P.C.
Attorney for LEC & DCN
2525 Highway 2 & 52 Bypass
P.O. Box 1000
Minot, ND 58702-1000
Fax: 701.857.1361

Alfred M. Mamlet and Marc A. Paul
Steptoe & Johnson, LLP
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Fax: 202.429.3902

Thomas J. Moorman
Kraskin, Moorman & Cosson, LLC
Attorneys for Illuminet, Inc
2120 L Street, N.W.,
Suite 520
Washington, D.C. 20037
Fax: 202.296.8893

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505
Fax: 701.328.2410



Theresa Davidson

ATTACHMENT**Chuck Steese**

From: Chuck Steese [csteese@s-elaw.com]
Sent: Friday, August 06, 2004 10:17 AM
To: 'Mamlet, Alfred', 'Don Negaard', 'Tom Moorman', 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco', 'Binek, William W.', 'pdouglass@s-elaw.com', 'Todd Lundy', 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

No, I do not agree. We discussed this proposal with the understanding that the hearing could be set by the Commission as early as 1/3. The schedule would have been very difficult given our respective schedules, especially for you to complete three depositions. Now that the hearing date has been set for February 21, there is simply no need for this aggressive schedule. I note, as well, that here you are willing to file your direct testimony just 2 days after any depositions will be complete thereby showing that your desire is to have depositions for the purposes of preparing for the New Mexico hearing, not for your direct testimony in North Dakota. I will propose the schedule that you agreed to in your email yesterday, and explain why I believe depositions should not occur during the time that you have requested.

Respectfully,

Chuck Steese
Steese & Evans, P.C.
6400 S. Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 10:09 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

We are fine with the schedule you proposed in our telephone conversation earlier this week.

Close of discovery	9/15
Complainants Testimony	9/17
Qwest Testimony	11/17
Dispositive Motions	Thirty days prior to the hearing (1/21)
Complainants Rebuttal Testimony	12/17

Please let me know whether you will maintain your earlier position.

Respectfully,

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]

8/6/2004

Sent: Friday, August 06, 2004 10:41 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

What schedule are you proposing?

Please advise

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 8:37 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

No, we are not agreed

The ALJ gave us an one month extension. Now you are trying to turn additional flexibility from the Commission given by the February hearing date into a prohibition on taking depositions for the next two months. We will give you plenty of notice of the depositions we plan to take, certainly more than the one week you gave us when you issued the North Dakota 30(b)(6) deposition notice that you intended to be taken by a colleague when you would have been on vacation.

Respectfully,

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 10:27 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred,

I am the attorney on this case. We have no local counsel. I do not know if any of our witnesses are based in North Dakota. As such, we expect depositions in Colorado, at a time when both you and I can be available. The same will be true of the one anticipated deposition I plan for Illuminet, a deposition in Overland Park, Kansas where they are located.

Are we agreed on the following schedule

Discovery Cutoff: October 8, 2004

8/6/2004

Direct Testimony October 19, 2004

Responsive Testimony December 14, 2004

Rebuttal Testimony January 18, 2004

Dispositive Motions January 21, 2004

Hearing Date February 21, 2005

Please advise As you know, we have to file the proposed schedule with the Commission today, so I would appreciate understanding

Respectfully,

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Friday, August 06, 2004 8:04 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

At the phone conference with the ALJ, I said we were prepared to move forward with no further discovery but that if the deadline was postponed for Qwest to take depositions, then we would take depositions as well You have no right to dictate my schedule to do so You can either work with me on the dates or Qwest can send another attorney to the depositions I will notice and take in North Dakota

Alfred

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 9:57 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

I disagree You went from saying you did not need any additional discovery when we discussed the issue before the ALJ, to saying you wanted three depositions You have not yet told me what depositions you want, however, you did tell me that one of the depositions would be a 30(b)(6) where we would have to prepare our witnesses on topics We are willing to accommodate within reason, however, there is no reasonable way to complete three depositions with both of our schedules by September 15 Specifically You have a 10-day vacation Then, I have a week with existing depositions Then the Labor day weekend, followed by a week where I have an oral argument before the Nebraska Supreme Court The next week is the week before we both have a week-long hearing before the NM Commission on the exact same issues It is perfectly reasonable to expect that week for preparation I agreed to move out testimony Qwest's testimony for a week to give you one additional week to prepare your direct testimony even though you have told me that your direct case is effectively complete already Your refusing to take me up on my offer leads me to believe that the real reason you want three depositions is for

8/6/2004

the hearing in New Mexico. As you know, there was a specific deadline for depositions in New Mexico that ran in February 2004. My proposal is reasonable and accommodates everyone involved. There will be more than enough time to give you the depositions you want.

Are we agreed on the schedule? Can we prepare a joint pleading? Please advise.

Please advise.

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

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From: Mamlet, Alfred [<mailto:AMamlet@steptoe.com>]
Sent: Friday, August 06, 2004 7:51 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

I should add that I prefer to have these depositions well before 9/15. I used the 9/15 date to try to accommodate your schedule. If we can't agree on dates I will notice the depositions for earlier.

Respectfully,

Alfred

-----Original Message-----

From: Mamlet, Alfred
Sent: Friday, August 06, 2004 9:20 AM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Chuck,

I told you and the ALJ at our telephone hearing that if the ND schedule was extended for you to take depositions, then we would take depositions of Qwest. The ALJ gave Qwest a month extension. Illuminet intends to take the depositions in roughly this time frame. If you want to work with me to find mutually convenient dates before 9/15 I am willing to do so. If not, we will notice the depositions in North Dakota and take them. Regardless of the ultimate discovery deadline we are not constrained to wait until the last minute to take the depositions even if that is what you prefer.

Respectfully,

Alfred

-----Original Message-----

8/6/2004

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Friday, August 06, 2004 4:34 AM
To: 'Mamlet, Alfred'; 'Don Negaard'; 'Tom Moorman'; 'Paul, Marc'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'; pdouglass@s-elaw.com; 'Sarah Albright'
Subject: RE: SS7 Hearing Dates

Alfred

It is obvious that the reason you want to take these depositions is so that you have them in advance of the NM hearing. As you know, the time for taking depositions in NM has passed. As we discussed, the only two days that we could theoretically accommodate was the week of September 13, which will not really give me time to prepare my witnesses because I am in an oral argument before the Nebraska Supreme Court on 9/9. In addition, I would like time to prepare for the NM hearing, which is set for 5 days beginning 12/20. I would like the entirety of the week of 9/23 to perform this work. I strongly recommend that we hold the depositions the weeks following the NM hearing when there is substantially less pressure on everyone involved.

If this is unacceptable, I propose that we either submit alternative schedules to the ALJ or that we move your direct testimony back by one week and leave all of the other dates in place. This will only affect Qwest's time to file its responsive testimony. Is the latter acceptable? Please advise.

Respectfully,

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

This e-mail message, including any attachment(s), contains information that may be confidential, protected by the attorney client privilege or other legal protections, and/or non-public, proprietary information. If you are not an intended recipient of this message or an authorized assistant to the intended recipient, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message and/or any of its attachments (if any) by unintended recipients is not authorized and may be unlawful.

From: Mamlet, Alfred [mailto:AMamlet@steptoe.com]
Sent: Thursday, August 05, 2004 12:32 PM
To: 'csteese@s-elaw.com'; 'Don Negaard'; 'Tom Moorman'; Paul, Marc
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; 'pdouglass@s-elaw.com'; 'Todd Lundy'
Subject: RE: SS7 Hearing Dates

Chuck,

The dates you proposed are fine with the Complainants with one exception.

We would like either (1) the discovery cut-off advanced to September 15, which is still an extension of 6 weeks, or (2) your agreement that the Qwest deponents will be made available on mutually agreeable consecutive dates prior to September 15. We would like to take these depositions and receive transcripts well before we finalize our North Dakota testimony and I have other commitments in the subsequent weeks.

Regards

Alfred

8/6/2004

-----Original Message-----

From: Chuck Steese [mailto:csteese@s-elaw.com]
Sent: Wednesday, August 04, 2004 6:28 PM
To: 'Don Negaard'; 'Mamlet, Alfred'; 'Tom Moorman'; 'Marc Paul'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'
Subject: RE: SS7 Hearing Dates

Don

That hearing date is fine from Qwest's perspective

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

This e-mail message, including any attachment(s), contains information that may be confidential, protected by the attorney client privilege or other legal protections, and/or non-public, proprietary information. If you are not an intended recipient of this message or an authorized assistant to the intended recipient, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message and/or any of its attachments (if any) by unintended recipients is not authorized and may be unlawful.

From: Don Negaard [mailto:donn@srt.com]
Sent: Wednesday, August 04, 2004 4:00 PM
To: csteese@s-elaw.com; 'Mamlet, Alfred'; 'Tom Moorman'; 'Marc Paul'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.'; pdouglass@s-elaw.com; 'Todd Lundy'
Subject: Re: SS7 Hearing Dates

Chuck,

Received your proposal. I think we can work this out among the parties and submit a schedule. I think the immediate concern was to make sure the hearing date is not an impossible imposition on the parties or witnesses.

----- Original Message -----

From: Chuck Steese
To: 'Don Negaard', 'Mamlet, Alfred', 'Tom Moorman', 'Marc Paul'
Cc: 'Illona A. Jeffcoat-Sacco'; 'Binek, William W.', pdouglass@s-elaw.com, 'Todd Lundy'
Sent: Wednesday, August 04, 2004 4:16 PM
Subject: RE: SS7 Hearing Dates

Don, Alfred and others

In light of this hearing date, can we propose the following dates for the remainder of this docket:

Discovery Cutoff October 8, 2004

Direct Testimony October 12, 2004

Responsive Testimony December 14, 2004

Rebuttal Testimony January 18, 2004

8/6/2004

Dispositive Motions January 21, 2004

Hearing Date February 21, 2005

I think that this will help us to avoid the New Mexico hearing conflicts that were of potential concern Please advise

Thanks,

Chuck Steese
Steese & Evans, P C
6400 S Fiddlers Green Circle, Suite 1820
Denver, CO 80111
Voice 720-200-0677
Fax 720-200-0679
Email csteese@s-elaw.com

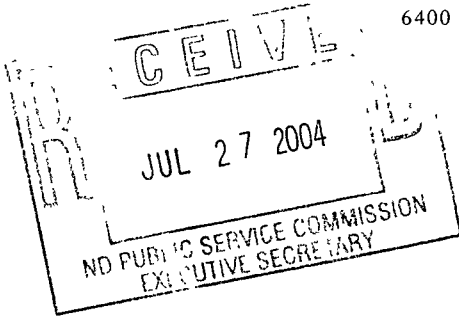
From: Don Negaard [mailto:donn@srt.com]
Sent: Wednesday, August 04, 2004 2:57 PM
To: Chuck Steese; Mamlet, Alfred; Tom Moorman; Marc Paul
Cc: Hon. Allen C. Hoberg; Iilona A. Jeffcoat-Sacco; Binek, William W.
Subject: SS7 Hearing Dates

The PSC met today They set a hearing date in this matter for February 21 I discussed this issue with Judge Hoberg and he suggested the parties could incorporate this hearing date into the revised schedule to be submitted for his approval

If anyone has a problem with these dates for witnesses etc they are to notify the PSC , Judge Hoberg and the other parties immediately

STEESE & EVANS, P.C.

6400 South Fiddlers Green Circle, Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679
www.s-elaw.com



Phil Douglass (720) 200-0614
pdouglass@s-elaw.com

July 26, 2004

Via U.S. Mail and Facsimile

Don Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Alfred M. Mamlet
Marc Paul
Steptoe & Johnson, LLP
1330 Connecticut Ave NW
Washington, DC 20036

Thomas J. Moorman
Kraskin, Moorman &
Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

Re: ITC Group v. Qwest Corp., NDPSC Case No. PU-2829-03-83

Dear Messrs. Negaard, Moorman, Mamlet, Paul and Binek:

In light of the ALJ's order extending the schedule in the above-matter, we are postponing Illuminet's deposition noticed for this week. We will be contacting you by early next week to work out the details of the schedule as required by the order and to arrange a new date for Illuminet's deposition.

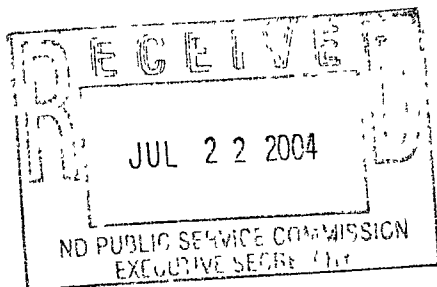
Very truly yours,

Phil Douglass

cc: Chuck Steese

STEESE & EVANS, P.C.

6400 South Fiddlers Green Circle, Suite 1820
Denver, Colorado 80111
(720) 200-0676
Fax (720) 200-0679
www.s-elaw.com



Phil Douglass (720) 200-0614
pdouglass@s-elaw.com

July 22, 2004

Via U.S. Mail and Facsimile

Don Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Alfred M. Mamlet
Marc Paul
Steptoe & Johnson, LLP
1330 Connecticut Ave NW
Washington, DC 20036

Thomas J. Moorman
Kraskin, Moorman &
Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

Re: ITC Group v. Qwest Corp., NDPSC Case No. PU-2829-03-83

Dear Messrs. Negaard, Moorman, Mamlet, Paul and Binek:

We have not heard from the ALJ concerning our request to extend the discovery deadline in the above-referenced matter. Accordingly, as Chuck Steese indicated in the hearing yesterday, out of an abundance of caution we are noticing the deposition of Illuminet for July 29 and 30, 2004. The Notice of Deposition is enclosed.

In the event the ALJ grants the requested extension, please consider Illuminet's deposition postponed to a later date and time mutually agreeable to the parties.

Very truly yours,

A handwritten signature in black ink that reads "Phil Douglass" followed by a stylized flourish.

Phil Douglass

Enclosures

78 **PU-2829-03-83**

Pages 1

Cover letter re Qwest's Notice of
Deposition to Illuminet, Inc
by Qwest Corporation

07/22/2004

C Comm Legal PUD (3) Mike ALJ

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)	
Consolidated Telcom, Dakota Central)	
Telecommunications Cooperative, Dickey)	CASE NO. PU-2829-03-83
Rural Telephone Cooperative, Griggs County)	
Telephone Company, Inter-Community)	
Telephone Company, LLC, Midstate)	
Telephone Company, Midstate)	
Communications, Inc., Moore & Liberty)	
Telephone Company, North Dakota)	
Telephone Company, Northwest)	
Communications Cooperative, Polar)	
Communications Mutual Aid Corporation,)	
Reservation Telephone Cooperative,)	
SRT Communications, Inc., Turtle Mountain)	
Communications, Inc., United Telephone)	
Mutual Aid Corporation, West River)	
Telecommunications Cooperative, Dakota)	
Carrier Network, LLC, and Illuminet, Inc.,)	
)	
Complainants,)	
)	
-vs-)	
)	
Qwest Communications,)	
)	
Respondent.)	

QWEST CORPORATION'S NOTICE OF DEPOSITION TO ILLUMINET, INC.

TO:

Don Negaard
Pringle & Herigstad, P.C.
2525 Highway 2 & 52 Bypass
P.O. Box 1000
Minot, ND 58702-1000

Alfred M. Mamlet and Marc A. Paul
Steptoe & Johnson, LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036

Thomas J. Moorman
Kraskin, Moorman & Cosson, LLC
2120 L Street, N.W.,
Suite 520
Washington, D.C. 20037

William W. Binck
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

77 **PU-2829-03-83**

Pages 9

Qwest's Notice of Deposition to Illuminet,
Inc
by Qwest Corporation

07/22/2004

C Comm Legal PUD (3) Mike ALJ

DEPONENT: ILLUMINET, INC.
DATE & TIME: July 29-30, 2004 at 9:00 a.m. and continuing until complete.
PLACE: The Law Offices of Shughart, Thompson & Kilroy, P.C.
12 Wyandotte Plaza
120 W. 12th Street
Kansas City, MO 64105

Please take notice that the deposition upon oral examination of Illuminet, Inc. (“Illuminet”) will be taken by Qwest Corporation (“Qwest”) at the time and place indicated above, before a registered court reporter duly commissioned. The deposition will continue from day to day until completed.

You are further notified that because Illuminet is not a natural person Illuminet shall produce at its deposition those of its officers, directors, managing agents, employees or agents who are most qualified to testify on behalf of Illuminet as to the following matters to the full extent of any information known or reasonably available to Illuminet:

1. The identity, description and nature of each signaling service Illuminet has purchased or is currently purchasing from Qwest.
 - a. The facilities over which Illuminet signaling messages traverse(d) to complete calls under this relationship with Qwest.
 - b. The signaling facilities (including but not limited to STPs or signaling links) that Illuminet has/had in place, if any, to support this relationship with Qwest.
 - c. The orders Illuminet submitted to Qwest to obtain these signaling services.
2. The identify, description and nature of each signaling service Illuminet offers to provide to carrier customers, including but not limited to those carrier customers parties to this proceeding.

a. The rates and terms and conditions that Illuminet provides each signaling service to its carrier customers.

b. The contracts (including but not limited to rates and terms and conditions) between Illuminet and its carrier customers for each of these signaling services.

3. The nature, scope, rates, and terms and conditions of Illuminet's past and current contractual relationships with its carrier customers, including but not limited to those carrier customers parties to this proceeding, and the negotiations relating to such contractual relationships.

4. The nature, scope, rates, and terms and conditions of Illuminet's past and current contractual/tariff relationships with Qwest, and the negotiations relating to such contractual/tariff relationships.

5. The nature, scope, rates, and terms and conditions of Qwest's approved SGAT in North Dakota insofar as it relates to signaling and reciprocal compensation.

6. The content, nature, scope, rates, and terms and conditions of Qwest North Dakota and FCC SS7 Tariffs, including but not limited to Qwest's CCSAC product.

7. The facts and/or rationale that lead Illuminet's carrier customers, including but not limited to those carrier customers that are parties to this proceeding, to stop purchasing signaling services from Qwest and to begin purchasing signaling services from Illuminet, including any economic basis for that decision, irrespective of whether any formal analysis was undertaken by those carrier customers, Illuminet or a third party and irrespective of whether the analysis occurred before or after the decision to transition to Illuminet.

a. The marketing efforts by Illuminet regarding its signaling services.

b. The reason Illuminet provides its carrier customers for why it should use Illuminet to provide signaling services and why Illuminet believes it provides value to its carrier customers in the provision of these signaling services.

8. Interconnection Agreements, as well as Amendments to Interconnection Agreements, or any other agreements between Qwest and Illuminet's carrier customers, including but not limited to those carriers customers that are parties to this proceeding, including but not limited to whether parties to such agreements intended to include messages as part of reciprocal compensation.

a. All provisions of the contract(s) that support/fail to support the position that reciprocal compensation rates include a signaling component.

b. All provisions of the contract(s) that support/fail to support the position that the reciprocal compensation provisions of the contract(s) intended to include the exchange of signaling messages.

9. All infrastructure sharing agreements, EAS agreements or other agreements between Qwest and Illuminet's carrier customers, including but not limited to whether the parties to such agreements intended to include SS7 messages within existing EAS rates or other rate elements.

10. The terms and conditions of any Letters of Agency or Letters of Authorization (LOAs) issued between Qwest and Illuminet's carrier customers, including but not limited to those carrier customers that are parties to this proceeding, or between Qwest and Illuminet on behalf of its carrier customers, and the implications of these LOAs, including:

a. All discussions with Illuminet's carrier customers related to these LOAs.

b. All discussions with Qwest related to these LOAs.

c. Whether the terms of the contracts between Illuminet and its carrier customers and/or Qwest and Illuminet's carrier customers allow for an LOA to modify the terms of such contracts.

11. All meetings, discussions or other events between Illuminet and any of its carrier customers, including but not limited to those carrier customers that are parties to this proceeding, concerning whether Illuminet is an agent of its carrier customers.

12. All meetings, discussions or other events between Qwest and Illuminet, wherein signaling, signaling services, SS7, or unbundled signaling was discussed.

13. All meetings, discussion or other events between Illuminet and its carrier customers, including but not limited to those carrier customers that are parties to this proceeding, wherein signaling, signaling services, SS7, or unbundled signaling was discussed.

14. All meetings, discussions or other events between Illuminet and its carrier customers, including but not limited to those carrier customers that are parties to this proceeding, wherein any of the following or related topics were discussed:

a. Notice and/or implementation of Qwest's North Dakota Tariff (or any equivalent state tariff) or Qwest's FCC Tariff;

b. ISUP messages;

c. Filing of the North Dakota Tariff (or any equivalent state tariff) or Qwest's FCC Tariff;

d. The impact of the Tariffs on Illuminet's carrier customers, including but not limited to those carrier customers that are parties to this proceeding;

e. Whether Illuminet is acting as an agent for its carrier customers; and,

f. Whether the reciprocal compensation provisions of any contract govern the signaling messages in issue in this case.

15. All meetings, discussions, or other events between Illuminet and Qwest wherein any of the following or related topics were discussed:

- a. Qwest's North Dakota Tariff or any equivalent state tariff;
- b. Qwest's equivalent FCC Tariff;
- c. ISUP messages;
- d. Timing for the filing of the North Dakota Tariff or any equivalent state tariff;
- e. The impact of the Tariffs on Illuminet's carrier customers;
- f. The charges to be billed under the North Dakota Tariff or any equivalent state tariff;
- g. Whether Illuminet is acting as an agent for its carrier customers;
- h. The manner in which Illuminet can act as an agent for its carrier customers;
- i. The reason why Illuminet could not obtain an interconnection agreement;
- j. PIU factors from the North Dakota Tariff (or any equivalent state tariff) or Qwest's FCC Tariff;
- k. The reason why Illuminet could not order services from its carrier customers' contracts with Qwest; and
- l. The financial impact of the North Dakota Tariff or any equivalent state tariff on Illuminet and its carrier customers.

16. Notice, if any, that Illuminet had regarding implementation of and/or revisions to Qwest's North Dakota Tariff or Qwest's FCC Tariff.

17. Notice, if any, that Illuminet provided to its carrier customers regarding implementation of and/or revisions to Qwest North Dakota Tariff or Qwest's FCC Tariff.

18. Internal discussions or discussions with any third party relating to whether the reciprocal compensation provisions of any contract govern the signaling messages in issue in this case.

19. Any meetings, discussions or other events between Illuminet and any regulatory body concerning the following:

a. Whether Illuminet is an agent of its carrier customers;

b. Whether Qwest provided Illuminet or its carrier customers with notice of its filing of the North Dakota Tariff.

c. Whether the North Dakota Tariff (or any equivalent state tariff) or Qwest's FCC Tariff should apply to all forms of traffic including but not limited to local traffic.

20. Details of how the North Dakota Tariff and the FCC Tariff were approved or otherwise allowed to go into effect.

21. All details relating to the location, identify and description of each of Illuminet's current or historic STPs and signaling links used to serve any end-user customer within North Dakota.

22. All details relating to invoices Illuminet has issued to its carrier customers, including but not limited to amounts billed, correspondence, demand letters, payment history, waiving of charges, and refusals to pay.

23. Charges relating to the allegations of the amount Qwest charged Illuminet for signaling charges in the state of North Dakota.

24. Training sessions provided by Illuminet to its carrier customers about the products and services Illuminet offers to those carrier customers.

25. Training sessions provided by Illuminet to its employees or agents about the products and services Illuminet offers to carrier customers.

26. Any and all information forming the basis for any assertion of privilege Illuminet has made with respect to any document withheld from production in this case on the grounds of privilege.

27. The basis for the claims set forth in the Complaint.

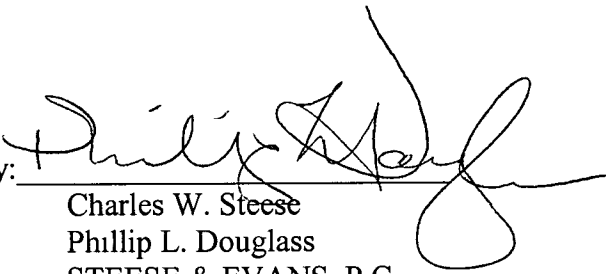
28. Details of the remedies or other recovery Illuminet seeks in this case.

29. Details regarding the historic charges associated with signaling, the inherent subsidies for those charges, and FCC decisions addressing those issues.

30. Details regarding how other ILECs bill Illuminet for ISUP messages.

Date: July 22, 2004.

Respectfully submitted,

By: 

Charles W. Steese
Phillip L. Douglass
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

CERTIFICATE OF SERVICE

I do hereby certify that on this 22nd day of July, 2004, I caused a copy of the foregoing **Qwest Corporation's Notice of Deposition to Illuminet, Inc.** to be served by facsimile and U.S. mail, first class postage prepaid, on the following:

Don Negaard
Pringle & Herigstad, P.C.
Attorney for LEC & DCN
2525 Highway 2 & 52 Bypass
P.O. Box 1000
Minot, ND 58702-1000
Fax: 701.857.1361

Thomas J. Moorman
Kraskin, Moorman & Cosson, LLC
Attorneys for Illuminet, Inc
2120 L Street, N.W.,
Suite 520
Washington, D.C. 20037
Fax: 202.296.8893

Alfred M. Mamlet and Marc A. Paul
Steptoe & Johnson, LLP
Attorneys for Illuminet, Inc.
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Fax: 202.429.3902

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505
Fax: 701.328.2410


Theresa Davidson

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

AFFIDAVIT OF SERVICE BY ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **26th day of July, 2004**, she deposited in the United States Mail, Bismarck, North Dakota, **seven** envelopes with ordinary postage, fully prepaid, securely sealed and each containing a photocopy of:

Administrative Law Judge's Prehearing Order

The envelopes were addressed as follows:

Don Negaard
Pringle & Herigstad
P O Box 1000
Minot ND 58702-1000

Alfred M. Mamlet
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

Thomas J Moorman
Kraskin Lesse & Cosson LLC
2120 L St NW Ste 520
Washington D C 20037

Marc A. Paul
Steptoe & Johnson, LLP
1330 Connecticut Ave, NW
Washington DC 20036

Melissa Thompson
Qwest Corporation
1801 California, 49th Floor
Denver, CO 80202

Phil Douglass
Steese & Evans, PC
6400 South Fiddlers Green Circle, Suite
1820
Denver, CO 80111

Scott Macintosh
Qwest Corporation
P. O. Box 5508
Bismarck, ND 58502-5508

Each address shown is the respective addressee's last reasonably ascertainable post office address.

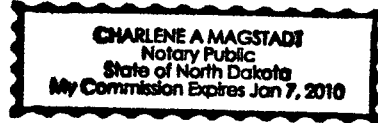
Paula J. Smith

Subscribed and sworn to before me
this **26th day of July 26, 2004.**

Charlene A. Magstadt

Notary Public

SEAL





OFFICE OF ADMINISTRATIVE HEARINGS

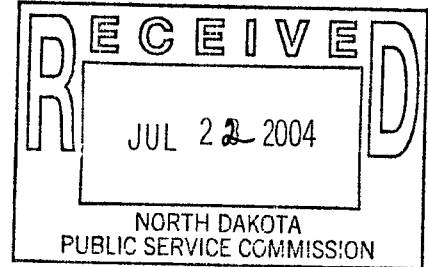
STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

July 22, 2004
Via Facsimile and Inside Mail

Ms. Ilona Jeffcoat-Sacco
Executive Secretary
ND Public Service Commission
600 E. Boulevard Avenue
Bismarck, ND 58505



Re: BEK Communications Cooperative, et al v. Qwest Communications
North Dakota Public Service Commission Case No. PU-2829-03-83
OAH File No. 20030206

Dear Ms. Jeffcoat-Sacco:

Enclosed is the original Prehearing Order signed by me in regard to the captioned matter. Please serve it on the appropriate parties involved. I have retained a copy for my file.

Sincerely,

Allen C. Hoberg
Administrative Law Judge

ACH/ljc

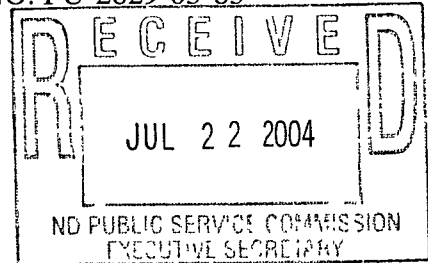
Enc.

cc: Ms. Sandi Scott

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
))
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs County)
Telephone Company, Inter-Community)
Telephone Company, LLC, Midstate)
Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative,)
SRT Communications, Inc., Turtle Telephone)
Communications, Inc., United Telephone)
Mutual Aid Corporation, West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc.,)
))
Complainants,)
vs.)
))
Qwest Communications,)
))
Respondent.)

CASE NO. PU-2829-03-83



PREHEARING ORDER

OAH File No. 20030206

.....

On July 21, 2004, a prehearing conference was held via telephone, attended by Mr. Steese, Mr. Negaard, Mr. Mamlet, Mr. Binek, and the hearing officer. Mr. Steese, on behalf of Qwest, asked for an extension of the Amended Scheduling Order issued by the hearing officer on February 25, 2004. In an earlier email to counsel and the hearing officer, Mr. Steese proposed a specific extended scheduling order. Mr. Negaard and Mr. Mamlet opposed an extension. Mr. Binek took no position.

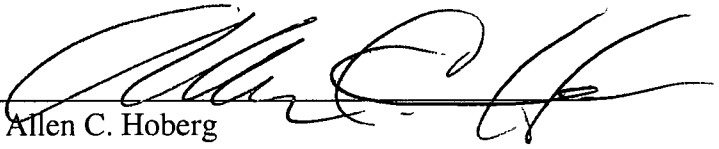
After hearing and considering the arguments of counsel, the proposal and the affected circumstances, the ALJ reluctantly grants the request knowing that any five day hearing scheduled after January 1, 2005, will have to accommodate the hearing officer's participation, as well as the Commission's and its staff's participation, in the 2005 Legislative Assembly. However, the need for a full and complete record should be the primary consideration.

Accordingly, the time for the hearing is extended one month. The Commission will issue a notice of hearing scheduling a hearing to be held in this matter after January 1, 2005. Counsel for the parties will submit to the hearing officer no later than August 6, 2004, a Second Amended Scheduling Order which accommodates this overall one month extension to the satisfaction of the parties. The Second Amended Scheduling Order must set filing dates, due dates, etc. for all of the items listed in the Amended Scheduling Order (discovery, motions to compel, etc.).

If the parties are unable to agree on dates for all of the specific items listed in the Second Amended Scheduling Order by 5:00 p.m. on August 6, 2004, the ALJ will impose dates.

State of North Dakota
Public Service Commission

By:


Allen C. Hoberg
Administrative Law Judge

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)

CASE NO. PU-2829-03-83

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs County)
Telephone Company, Inter-Community)
Telephone Company, LLC, Midstate)
Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative,)
SRT Communications, Inc , Turtle Telephone)
Communications, Inc., United Telephone)
Mutual Aid Corporation, West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc.,)

CERTIFICATE OF SERVICE

OAH File No. 20030206

Complainants,)

vs.)

Qwest Communications,)

The undersigned certifies that the original PREHEARING ORDER was faxed, via facsimile, and mailed, inside mail, at the State Capitol, on the 22 day of July, 2004, to:

Ms. Illona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge

[Handwritten signature of Lisa J. Carney]
Lisa J. Carney

To: Don Neqaard
701-857-1361

From: Illona A. Jeffcoat-Sacco
701-328-2410

Please fax this to Qwest, if
you have their new attorney's
fax number.

Thank you.



Public Service Commission
Receipt of Payment

Receipt# 5897

Received 6/16/2004 Check# 42274 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

Reservation Telephone Cooperative

Parshall ND 58770

73 **PU-2829-03-83**

Pages 1

Receipt# 5,897 \$28 72

by Reservation Telephone Cooperative

06/16/2004



Public Service Commission
Receipt of Payment

Receipt# 5886

Received 6/14/2004 Check# 50129 for \$28 72
Subject Utility Valuation (pd by United Telephone)

Docket # PU-2829-03-83

Turtle Mountain Communications, Inc.
P O Box 729
Langdon ND 58249-0729



Public Service Commission
Receipt of Payment

Receipt# 5889

Received 6/14/2004 Check# 59877 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

SRT Communications, Inc.
P O Box 2027
Minot ND 58702-2027



Public Service Commission
Receipt of Payment

Receipt# 5888

Received 6/14/2004 Check# 97643 for \$28 72

Subject Utility Valuation

Docket # PU-2829-03-83

Prefile balance \$. Notify

West River Telecommunications Cooperative

Hazen ND 58545



Public Service Commission
Receipt of Payment

Receipt# 5887

Received 6/14/2004 Check# 26544 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

Northwest Communications Cooperative

Ray ND 58849



Public Service Commission
Receipt of Payment

Receipt# 5885

Received 6/14/2004 Check# 50129 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

United Telephone Mut Aid Corp

Langdon ND 58249



Public Service Commission
Receipt of Payment

Receipt# 5884

Received 6/14/2004 Check# 91179 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

North Dakota Telephone Company
PO Box 180
Devils Lake ND 58301-0180



Public Service Commission
Receipt of Payment

Receipt# 5883

Received 6/14/2004 Check# 62282 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Dickey Rural Telephone Cooperative

Ellendale ND 58436



Public Service Commission
Receipt of Payment

Receipt# 5882

Received 6/14/2004 Check# 500320838 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

Qwest
5325 Zuni St Room 728
Denver CO 80221

65 PU-2829-03-83

Pages 1

Receipt# 5,882 \$28 72

by Qwest

06/14/2004



Public Service Commission
Receipt of Payment

Receipt# 5878

Received 6/7/2004 Check# 99838 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Consolidated Telephone Co-operative
P.O. Box 1077
Dickinson ND 58601



Public Service Commission
Receipt of Payment

Receipt# 5877

Received 6/7/2004 Check# 84373 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Dakota Central Telecommunications Cooperative
PO Box 299
Carrington ND 58421-0299



Public Service Commission
Receipt of Payment

Receipt# 5876

Received 6/7/2004 Check# 26052 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

Polar Communications Mutual Aid Corporation

Park River ND 58270

62 PU-2829-03-83

Pages 1

Receipt# 5,876 \$28 72

by Polar Communications Mutual Aid Corporation

06/07/2004



Public Service Commission
Receipt of Payment

Receipt# 5869

Received 6/3/2004 Check# 14049 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

Dakota Carrier Network, LLC
PO Box 2484
Fargo ND 58108

61 **PU-2829-03-83** Pages 1
Receipt# 5,869 \$28 72
by Dakota Carrier Network, LLC
06/03/2004



Public Service Commission
Receipt of Payment

Receipt# 5868

Received 6/3/2004 Check# 10020 for \$28 72
Subject Utility Valuation

Docket # PU-2829-03-83

Moore & Liberty Tele Co

Enderlin ND 58027

60 **PU-2829-03-83** Pages 1
Receipt# 5,868 \$28 72
by Moore & Liberty Tele Co
06/03/2004



Public Service Commission
Receipt of Payment

Receipt# 5867

Received 6/3/2004 Check# 12268 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Griggs County Tele Co.

Cooperstown ND 58425

59 PU-2829-03-83

Pages 1

Receipt# 5,867 \$28 71

by Griggs County Tele Co

06/03/2004



Public Service Commission
Receipt of Payment

Receipt# 5866

Received 6/3/2004 Check# 42351 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Midstate Telephone Co.

Stanley ND 58784

58 **PU-2829-03-83** Pages 1
Receipt# 5,866 \$28 71
by Midstate Telephone Co
06/03/2004



Public Service Commission
Receipt of Payment

Receipt# 5865

Received 6/3/2004 Check# 13416 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Midstate Communications, Inc.
P O. Box 400
Stanley ND 58784-0400

57 **PU-2829-03-83**

Pages 1

Receipt# 5,865 \$28 71

by Midstate Communications, Inc

06/03/2004



Public Service Commission
Receipt of Payment

Receipt# 5864

Received 6/3/2004 Check# 84804 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

BEK Communications Cooperative

Steele ND 58482



Public Service Commission
Receipt of Payment

Receipt# 5863

Received 6/3/2004 Check# 10922 for \$28 71
Subject Utility Valuation

Docket # PU-2829-03-83

Inter-Community Telephone Company, L.L.C.

APPROVED

DATE: 5-26-04
KMF

MOTION

May 26, 2004

Admin
AI.

ITC Group/DCN/Illuminet
vs Qwest Corporation
Complaint

Case No. PU-2829-03-83

I move the Commission bill the parties for costs incurred to date in Case
No. PU-2829-03-83, ITC Group/DCN/Illuminet vs Qwest Corporation, Complaint.



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Jon H. Mielke

600 E Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
web www.psc.state.nd.us
e-mail ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

May 26, 2004

Jerome Tishmack
BEK Communications Cooperative
PO Box 230
Steele ND 58482-0230

Paul Schuetzler
Consolidated Telcom
PO Box 1077
Dickinson ND 58601-1077

Keith Larson
Dakota Central Telecommunications
Cooperative
PO Box 299
Carrington ND 58421-0299

Mark Scallon
Dickey Rural Telephone Cooperative
PO Box 69
Ellendale ND 58436-0069

Ray Brown
Griggs County Telephone Company
PO Box 506
Cooperstown ND 58425-0506

Keith Anderson
Inter-Community Telephone Company LLC
PO Box 8
Nome ND 58062-0008

Mark Wilhelm
Midstate Telephone Company
Midstate Communications Inc
PO Box 400
Stanley ND 58784-0400

Ray Brown
Moore & Liberty Telephone Company
PO Box 66
Enderlin ND 58027

Dave Dircks
North Dakota Telephone Company
PO Box 180
Devils Lake ND 58301-0180

Dwight Schmitt
Northwest Communications Cooperative
PO Box 38
Ray ND 58849-0038

David Dunning
Polar Communications Mutual Aid Corp
PO Box 270
Park River ND 58270-0270

Royce Aslakson
Reservation Telephone Cooperative
PO Box 68
Parshall ND 58770-0068

Steve Lysne
SRT Communications Inc
PO Box 2027
Minot ND 58702-2027

Kenneth Carlson
United Telephone Mutual Aid Corporation
Turtle Mountain Communications Inc
PO Box 729
Langdon ND 58249-0729

Case No PU-2829-03-83
Page 2
May 26, 2004

Albert Grosz
West River Telecommunications
Cooperative
PO Box 467
Hazen ND 58545-0467

Evan Hass
Dakota Carrier Network LLC
PO Box 2484
Fargo ND 58108

Scott Macintosh
Qwest Corporation
PO Box 5508
Bismarck ND 58502-5508

RE Case No PU-2829-03-83
ITC Group/DCN/Illuminet
vs Qwest Corporation
Complaint

Enclosed is a copy of the statement approved at the May 26, 2004 Public Service Commission meeting for the expenses incurred to date in Case No PU-2829-03-83.

Under N D C C 49-21-01.7, these expenses are billed through the Valuation Fund and must be paid for by the telecommunications company involved

Please make your check payable to the *Public Service Commission*

Sincerely,


Gloria Geiger
Admin Staff Officer
701-328-2401

Enc

c Don Negaard
Pringle & Herigstad
PO Box 1000
Minot ND 58702-1000

Billing Statement

May 26, 2004

ITC Group/DCN/Illuminet*
vs Qwest Corporation
Complaint

Case No. PU-2829-03-83

Bill To:

BEK Communications Cooperative	\$28.71
Consolidated Telcom.	\$28.71
Dakota Central Telecommunications Cooperative ...	\$28.71
Dickey Rural Telephone Cooperative.	\$28.71
Griggs County Telephone Company	\$28.71
Inter-Community Telephone Company LLC.....	\$28.71
Midstate Telephone Company	\$28.71
Midstate Communications Inc	\$28.71
Moore & Liberty Telephone Company	\$28.72
North Dakota Telephone Company.....	\$28.72
Northwest Communications Cooperative	\$28.72
Polar Communications Mutual Aid Corporation	\$28.72
Reservation Telephone Cooperative.....	\$28.72
SRT Communications, Inc.	\$28.72
United Telephone Mutual Aid Corporation	\$28.72
Turtle Mountain Communications, Inc.....	\$28.72
West River Telecommunications Cooperative	\$28.72
Dakota Carrier Network, LLC	\$28.72
Qwest Corporation	\$28.72

* Illuminet, Inc. is a party to this case, but is a non-jurisdictional company, therefore, they are not billed for expenses incurred.

Expenses Incurred to Date:

Office of Administrative Hearings	\$545.60
-----------------------------------	----------

Send Payment and a Copy of this Statement To:

Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480

Federal Tax ID 45-0309764



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E Wefald
Kevin Cramer

Executive Secretary
Illona A Jeffcoat-Sacco

600 E Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
web www.psc.state.nd.us
e-mail ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

March 17, 2004

Mr. Don Negaard
Pringle & Herigstad, P.C.
P. O. Box 1000
Minot, ND 58702-1000

Re: BEK Communications Cooperative, et al.
vs. Qwest Corporation
Case No. PU-2829-03-83

Dear Mr. Negaard:

Enclosed is a copy of the Commission's Motion approving the request of Alfred M. Mamlet and Marc A. Paul, non-resident attorneys, to practice before the Commission on behalf of Illuminet, Inc., in the above referenced case.

If you have any questions, please contact me.

Thank you.

Sincerely,



William W. Binek
Chief Counsel

WWB/sls

C: Parties of Record

MOTION

APPROVED

March 17, 2004

DATE 3-17-04
KMF

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

I move that Alfred M. Mamlet and Marc A. Paul, non-resident attorneys, be given permission to practice before the Commission on behalf of Illuminet, Inc., in Case No. PU-2829-03-83.

WWB/sls



LAW OFFICES OF
PRINGLE & HERIGSTAD, P.C.

BREMER BANK BUILDING
20 SW 1ST STREET
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702
(701) 852-0381
FAX (701) 857-1361
E-mail pringle@srt.com

DONALD A NEGAARD
JAMES E NOSTDAHL
CAROL K LARSON
DAVID J HOGUE
REED A SODERSTROM
MARK R HAYS
BRENT M OLSON
DENISE C HAYS
DEBRA L HOFFARTH
SCOTT M KNUDSVIG

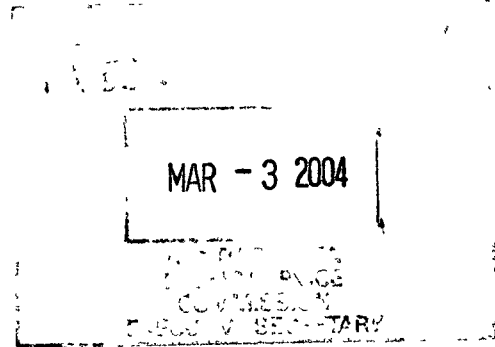
OF COUNSEL
HERBERT L MESHKE

RETIRED
THOMAS A WENTZ
MARK F PURDY
JAN M SEBBY

ROGER O HERIGSTAD
(1919-2003)

March 2, 2004

Jon H Mielke, Executive Secretary
PUBLIC SERVICE COMMISSION
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480



**BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS
CASE NO. PU-2829-03-83**

Enclosed for filing in the above-captioned matter are an original and eight copies of a Motion for Admission to Practice along with supporting Affidavits of Alfred M Mamlet and Marc A Paul and a proposed Order

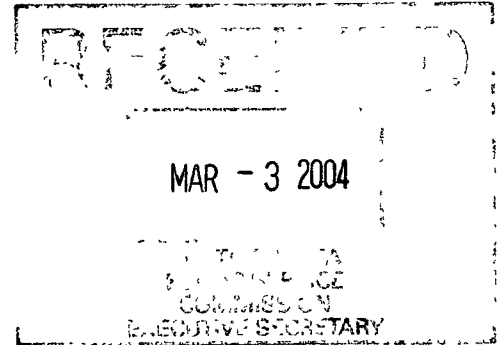
Don Negaard

jt

Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Telecommunications, Inc , Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc , United Telephone)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc , West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L L C , and Illuminet, Inc ,)
)
 Complainants,)
)
 vs)
)
 Qwest Communications,)
)
 Respondent)



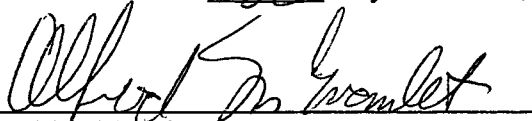
Case No PU-2829-03-83

MOTION FOR ADMISSION TO PRACTICE

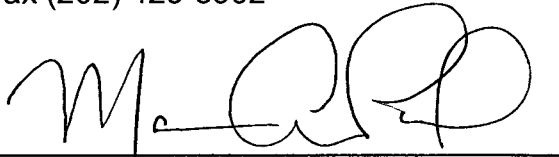
The undersigned attorney of record in the above-entitled matter moves the North Dakota Public Service Commission (PSC), pursuant to Rule 11.1 of the North Dakota Rules of Court, and based on the attached Affidavits of Alfred M Mamlet and Marc A Paul, nonresident attorneys of good standing in the District of Columbia, for permission to appear before the PSC on behalf of the Complainant, Illuminet, Inc , and to practice before the PSC in the above-pending matter Alfred M Mamlet and Marc A Paul designate as their associate Attorney Don Negaard (North Dakota Bar ID number 03598)

Pursuant to Rule 11.1 of the North Dakota Rules of Court, the Affidavits of Marc A Paul and Alfred M. Mamlet are attached hereto in support of this Motion for Admission to Practice.

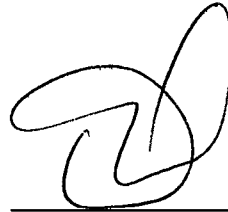
Dated this 20 day of March, 2004.



Alfred M. Mamlet
STEPTOE & JOHNSON, LLP
Attorneys for Complainants
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Telephone (202) 429-6205
Fax (202) 429-3902



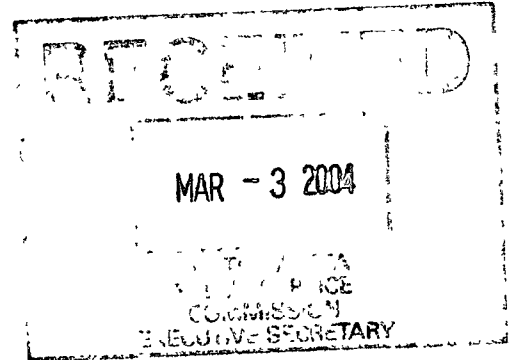
Marc A. Paul
STEPTOE & JOHNSON, LLP
Attorneys for Complainants
1330 Connecticut Avenue, NW
Washington, D.C. 20036
Telephone (202) 429-6484
Fax (202) 429-3902



Don Negaard, State Bar ID #03598
PRINGLE & HERIGSTAD, P.C.
Attorneys for Complainants
Second Floor, Bremer Bank Building
20 1st Street SW
P.O. Box 1000
Minot, ND 58702-1000
Telephone (701) 852-0381
Fax (701) 857-1361

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Telecommunications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., United Telephone)
)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc., West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)



Case No. PU-2829-03-83

AFFIDAVIT OF ALFRED M. MAMLET

STATE OF District of Columbia)
) ss.
 COUNTY OF District of Columbia)

Alfred M. Mamlet, being first duly sworn on oath, deposes and states as follows:

1. I am currently a member in good standing to practice law in the District of Columbia.

2. I am currently not subject to any public disciplinary proceedings with respect to my law license in any state.


3. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

4. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction relating to the practice of law.

5. Prior to the subject action, I have not appeared in a North Dakota state court in the past three years.

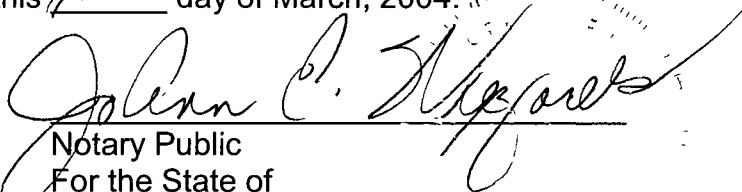
Further, affiant sayeth not.

Dated this 1st day of March, 2004



Alfred M Mamlet

Subscribed and sworn to before me this 1st day of March, 2004.



Notary Public
For the State of _____
My commission expires: 5/31/06

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Telecommunications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., United Telephone)

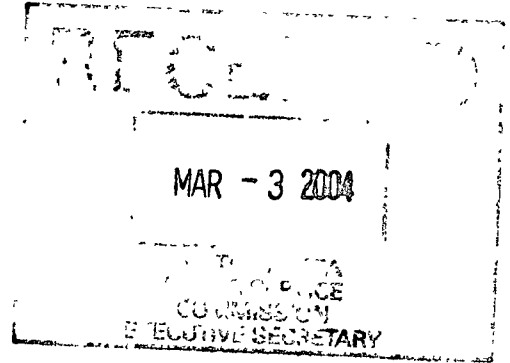
Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc., West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)

Complainants,)

vs.)

Qwest Communications,)

Respondent.)



Case No. PU-2829-03-83

AFFIDAVIT OF MARC A. PAUL

STATE OF City of Washington)
) ss.
 COUNTY OF District of Columbia)

Marc A. Paul, being first duly sworn on oath, deposes and states as follows:

1. I am currently a member in good standing to practice law in the District of Columbia.

2. I am currently not subject to any public disciplinary proceedings with respect to my law license in any state.

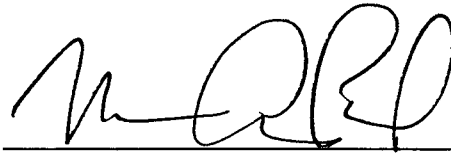
3. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

4. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction relating to the practice of law.

5. Prior to the subject action, I have not appeared in a North Dakota state court in the past three years.

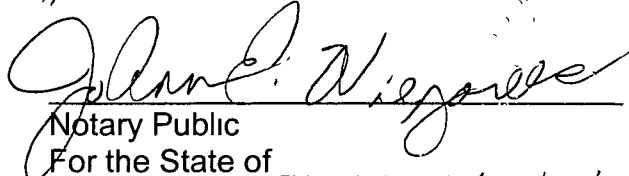
Further, affiant sayeth not.

Dated this 1 day of March, 2004



Marc A. Paul

Subscribed and sworn to before me this 1st day of March, 2004.

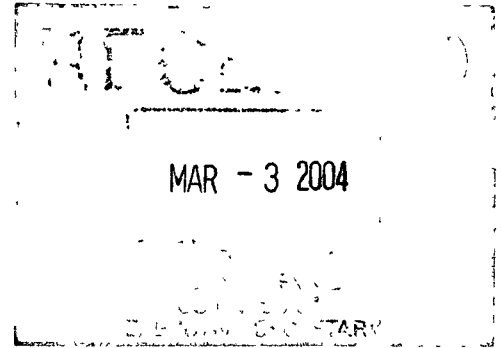


Notary Public
For the State of _____

My commission expires: 5/31/06

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Telecommunications, Inc , Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc , United Telephone)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc , West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L L C , and Illuminet, Inc ,)
)
 Complainants,)
)
 vs)
)
 Qwest Communications,)
)
 Respondent)



Case No PU-2829-03-83

ORDER

Attorneys Alfred M Mamlet and Marc A Paul filed a Motion for their admission to practice law before the North Dakota Public Service Commission in the above-captioned action After reviewing their Motion for Admission to Practice and supporting Affidavits attached thereto, the Motion is hereby granted and it is ordered that Alfred M Mamlet and Marc A Paul be permitted to appear on behalf of the Complainant Illuminet, Inc , in this matter

Dated this ____ day of _____, 2004

PUBLIC SERVICE COMMISSION

Anthony T Clark
Commissioner

Susan E Wefald
Commissioner

Kevin Cramer
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

AFFIDAVIT OF SERVICE BY ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sandra L. Scott deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **26th day of February, 2002**, she deposited in the United States Mail, Bismarck, North Dakota, **three** envelopes with ordinary postage, fully prepaid, securely sealed and each containing a photocopy of:

Administrative Law Judge's Amended Scheduling Order

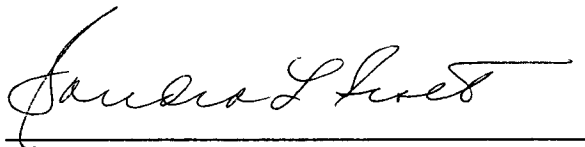
The envelopes were addressed as follows:

Don Negaard
Pringle & Herigstad
P O Box 1000
Minot ND 58702-1000

Daniel S. Kuntz
Zuger Kirmis & Smith
P O Box 1695
Bismarck ND 58502-1695

Thomas J Moorman
Kraskin Lesse & Cosson LLC
2120 L St NW Ste 520
Washington D C 20037

Each address shown is the respective addressee's last reasonably ascertainable post office address.

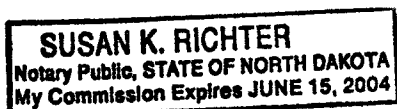


Subscribed and sworn to before me
this **26th day of February, 2002**.



Notary Public

SEAL



48 PU 2829-03-83 Pages 1

Affidavit of Service for ALJ's Amended
Scheduling Order
by Public Service Commission

02/26/2004 C. Comm. Legal PUD (3) Mike ALJ



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

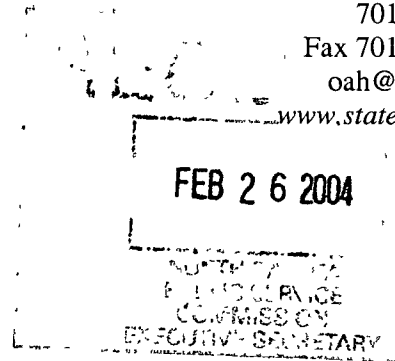
701-328-3260

Fax 701-328-3254

oah@state.nd.us

www.state.nd.us/oah

February 25, 2004



Mr. Jon Mielke
Executive Secretary
Public Service Commission
600 E. Boulevard Avenue
Bismarck, ND 58505

Re: BEK Communications Cooperative, et al v. Qwest Communications
North Dakota Public Service Commission Case No. ~~PU-229-03-08~~ *PU-2829-03-83*
OAH File No. 20030206

Dear Mr. Mielke:

Enclosed is the original Amended Scheduling Order signed by me in regard to the captioned matter. Please serve it on the appropriate parties involved. I have retained a copy for my file.

Sincerely,

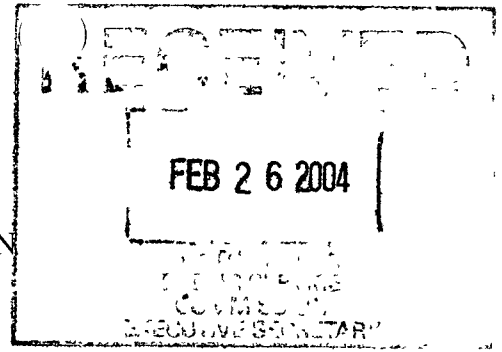
Allen C. Hoberg
Administrative Law Judge
Hearing Officer

ACH/ljc

Enc.

cc: Ms. Sandi Scott, PSC

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
 Communications, Inc , Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative,)
 SRT Communications, Inc , Turtle Mountain)
 Communications, Inc , United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc.,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent.)

CASE NO. PU-2829-03-83

AMENDED SCHEDULING ORDER

On July 15, 2003, the Hearing Officer issued a scheduling order in this matter. On August 20, 2003, the parties submitted a joint motion to temporarily stay the case to facilitate settlement discussions. The motion was granted by order issued August 22, 2003. The parties filed a joint motion to renew the stay on October 1, 2003 which was granted by an order issued October 10, 2003. On January 23, 2004, Qwest notified the Hearing Officer that despite ongoing settlement negotiations it appeared that settlement of the complainants' claim was unlikely in the

near future and requested the Hearing Officer to issue a new procedural order. The Complainants objected to Qwest's proposed procedural schedule and the Hearing Officer allowed the parties until February 20, 2004 to confer on a new schedule. On February 20, 2004, Qwest advised the Hearing Officer that the parties agreed on a recommended procedural schedule and requested the Hearing Officer to issue an order adopting the schedule. The Hearing Officer has taken the request under advisement and issues the following Amended Scheduling Order.

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A notice of hearing will be issued by the Public Service Commission. The hearing will be held after December 1, 2004. Qwest expects the hearing will encompass approximately 5 days.

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be filed no later than fourteen (14) days after filing of the post-hearing briefs

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The parties need not serve the Hearing Officer or Commission staff with discovery documents, unless a request to conduct discovery, motion to compel, or other request or motion requiring a response from the Hearing Officer is made.

Dated at Bismarck, North Dakota this 25th day of February, 2004

State of North Dakota
Public Service Commission

By: 

Allen C Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc.,)
)
Complainants,)
vs.)
)
Qwest Communications,)
)
Respondent.)

**CERTIFICATE
OF SERVICE**

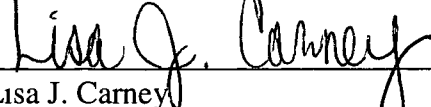
OAH File No. 20030206

.....

The undersigned certifies that the original **AMENDED SCHEDULING ORDER** was mailed, inside mail, at the State Capitol, on the 25 day of February, 2004, to:

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge



Lisa J. Carney

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

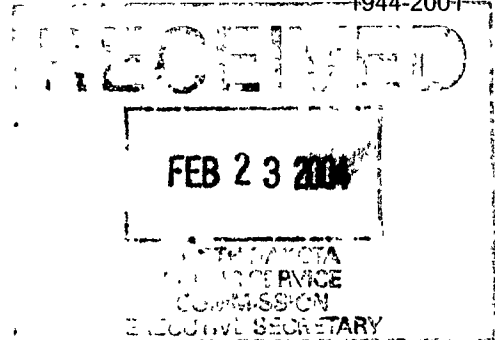
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Of Counsel
John A Zuger

Thomas O Smith

1944-2001



February 20, 2004

Mr. Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, ND 58501-1882

Re: **BEK Communications Cooperative, et al. v. Qwest Communications – NDPSC**
Case No. PU-2829-03-83

Dear Mr. Hoberg:

Pursuant to your letter of February 6, 2004, Mr. Negaard and I have conferred and reached agreement on a proposed Scheduling Order. The parties recommend that the Hearing Officer adopt the enclosed proposed Amended Scheduling Order in this proceeding.

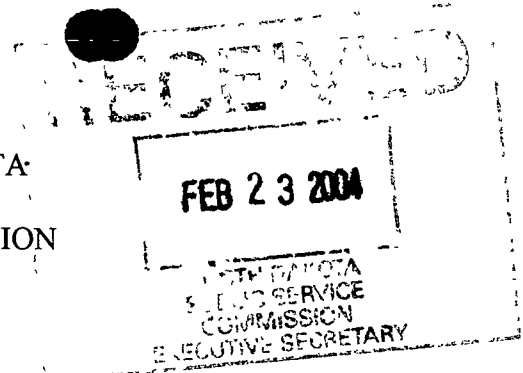
Please contact Mr. Negaard or me if you have any questions.

Sincerely,

Daniel S. Kuntz

Enclosure

c Donald A. Negaard
William W. Binck



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
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Telephone Company, LLC, Midstate)
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Dated at Bismarck, North Dakota this ____ day of _____, 2004.

State of North Dakota
Public Service Commission

By: _____
Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone (701)328-3260



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PRINGLE & HERIGSTAD, P.C.

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OF COUNSEL
HERBERT L. MESCHKE

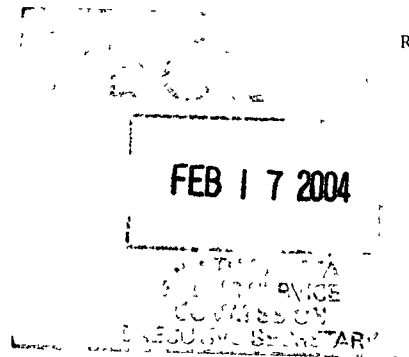
RETIRED
THOMAS A. WENTZ
MARK F. PURDY
JAN M. SEBBY

ROGER O. HERIGSTAD
(1919-2003)

DONALD A. NEGAARD
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REED A. SODERSTROM
MARK R. HAYS
BRENT M. OLSON
DENISE C. HAYS
DEBRA L. HOFFARTH
SCOTT M. KNUDSVIG

February 13, 2004

Honorable Allen C. Hoberg
Administrative Law Judge
OFFICE OF ADMINISTRATIVE HEARINGS
1707 North 9th Street
Bismarck, ND 58501-1882



**BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS
NDPSC CASE NO. PU-2829-03-83
QWEST MOTION FOR RECONSIDERATION OF DISCOVERY ORDER**

The Rural Telephone Company Group (RTCG) plans to submit a response to Qwest's Motion for Reconsideration of the Discovery Order that was issued

Two factors suggest that the comments will not be filed this week

- 1 As I write this, the North Dakota Public Service Commission is planning a meeting at 4 p.m. today to decide whether to issue a temporary stay in the TRO proceedings while it considers whether to issue a stay of its February 25, 2004, meeting
- 2 RTCG has been working with Qwest to resolve some discovery issues with Qwest. The resolution of one last issue may result in RTCG not opposing Qwest's motion. Some key personnel we need to confer with are unavailable this week due to other commitments

In the event the TRO proceeding is not stayed and we are unable to reach an agreement with Qwest, I will file comments on or before Friday, February 20, 2004. I hope this is agreeable to you

Don Negaard

jt

cc Service List

DONALD A NEGAARD
JAMES E NOSTDAHL
CAROL K LARSON
DAVID J HOGUE
REED A SODERSTROM
MARK R HAYS
BRENT M OLSON
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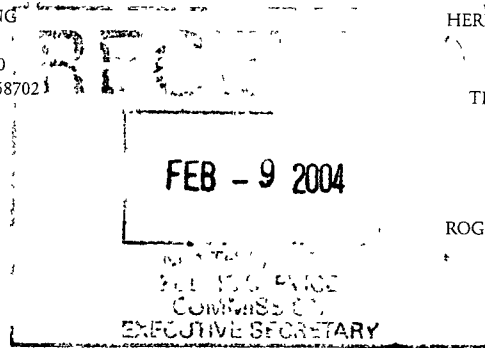
PH
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ROGER O HERIGSTAD
(1919-2003)



February 5, 2004

VIA FAX TRANSMISSION

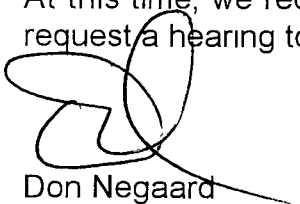
COPY

Honorable Allen C Hoberg
Administrative Law Judge
OFFICE OF ADMINISTRATIVE HEARINGS
1707 North 9th Street
Bismarck, ND 58501-1882

**BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS
NDPSC CASE NO. PU-2829-03-83**

We are in receipt of the letter from Qwest suggesting and outlining a hearing schedule in this matter. We had hoped that Qwest would have consulted with the North Dakota companies and Illuminet before submitting a schedule to see if there was some consensus before submission.

At this time, we request an opportunity to consult with Qwest before the Complainants request a hearing to set a new schedule.



Don Negaard

jt

cc Daniel S Kuntz
William W Binek, PSC

**OFFICE OF ADMINISTRATIVE HEARINGS**

STATE OF NORTH DAKOTA

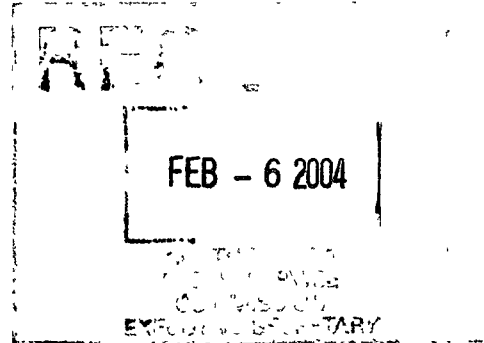
1707 North 9th Street

Bismarck, North Dakota 58501-1882

Allen C. Hoberg
DIRECTOR701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

February 6, 2004

Via Facsimile

Mr. Don Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702Re: BEK Communications Cooperative, et al v. Qwest Communications
North Dakota Public Service Commission Case No. PU-229-03-08
OAH File No. 20030206

Dear Mr. Negaard:

Both the Complainants and the Commission Staff have expressed concerns. The hearing officer will grant the parties until February 20, 2004, to discuss this matter and to file a joint amended scheduling order. If one is not filed by 5:00 p.m. on February 20, the hearing officer will schedule a prehearing conference to discuss an amended scheduling order.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen C. Hoberg".

Allen C. Hoberg
Administrative Law Judge
Hearing Officer

ACH/ljc

cc: Mr. Daniel Kuntz
William W. Binek

38 PU-2829-03-83

Pages 1

Copy of ALJ's letter to parties re
scheduling order
by Office of Administrative Hearings by Allen Hoberg
02/06/2004 C Comm Legal PUD (3) Mike ALJ

FAX COVER SHEET

FAX TO:

Mr. Don Neegard, Pringle & Herigstad, P.C. (701) 857-1361
Mr. Daniel Kuntz, Zuger Kirmis & Smith (701) 223-7387
Mr. William W. Binek, PSC (701) 328-2410

MESSAGE: Letter

FAX FROM:

Allen C. Hoberg
Office of Administrative Hearings
1707 North 9th Street
Bismarck, ND 58501-1882
Telephone Number: (701) 328-3260
Fax Number: (701) 328-3254

NUMBER OF PAGES SENT INCLUDING COVER SHEET: 2

DATE SENT: February 6, 2004

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL:

Lisa

(701) 328-3260

The information contained in this facsimile message may be privileged and confidential. It is intended only for the use of the individual or entity to whom it is sent. If you are not the intended recipient of this facsimile message and have received this transmittal by mistake, please do not distribute or copy the communication. Instead, we would appreciate it if you would notify the Office of Administrative Hearings immediately by telephone. Thank you for your cooperation.

ZUGER KIRMIS & SMITH

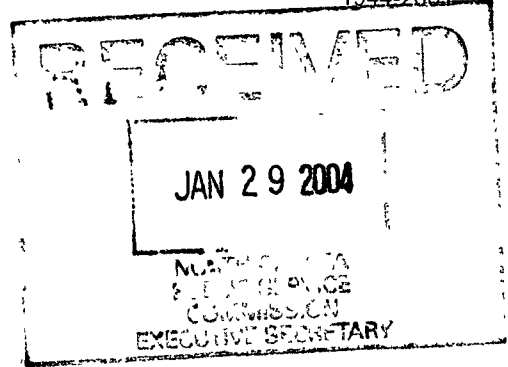
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Of Counsel
John A Zuger

Thomas O Smith
1944-2001



January 29, 2004

Mr. Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, ND 58501-1882

Re: ITC Group v. Qwest Communications – NDPSC Case No. PU-2829-03-83

Dear Mr. Hoberg.

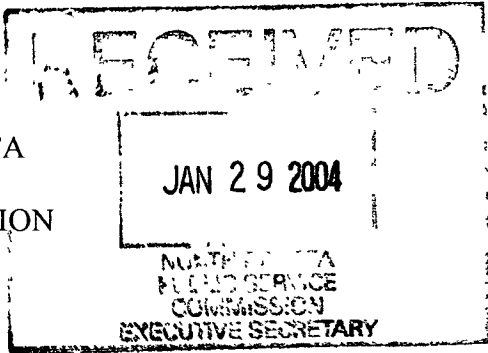
Because settlement of this matter appears unlikely in the near future, Qwest submits the proposed Amended Scheduling Order for your consideration

Sincerely,

Daniel S Kuntz

Enclosure

- c William W Binek
- Donald A Negaard
- Thomas J. Moorman
- Chuck Steese
- Scott Macintosh
- Tim Goodwin



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

CASE NO PU-2829-03-83

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
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Dated at Bismarck, North Dakota this ____ day of _____, 2004

State of North Dakota
Public Service Commission

By _____
Allen C Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260



LAW OFFICES OF

PRINGLE & HERIGSTAD, P.C.

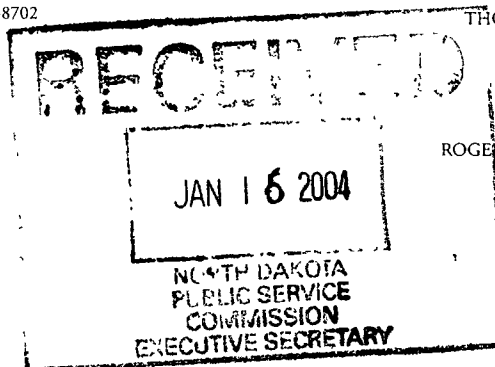
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January 15, 2004

Honorable Allen C Hoberg
Administrative Law Judge
OFFICE OF ADMINISTRATIVE HEARINGS
1707 North 9th Street
Bismarck, ND 58501-1882

BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS NDPSC CASE NO. PU-2829-03-83

We apologize for not responding sooner, but we are in the process of trying to resolve this matter

I am out of the office the week of January 19, 2004, and will contact you during the week of January 26 to advise you of the status of this matter

Don Negaard

jt

cc Daniel S Kuntz
William W Binek, PSC

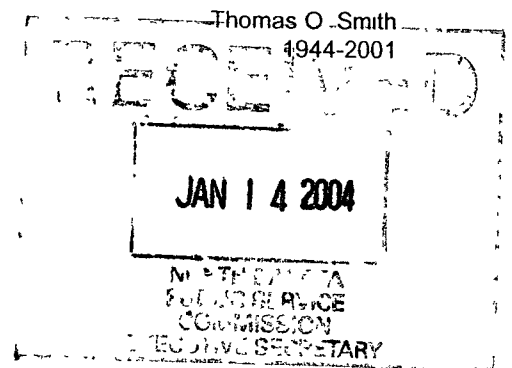
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Shawnda R. Reid
Constance N. Hofland
Paul R. Sanderson
Aaron K. Webb

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P.O. Box 1695
Bismarck, ND 58502-1695
(701) 223-2711
fax (701) 223-7387
www.zkslaw.com
email zkslaw@zkslaw.com

Of Counsel
John A. Zuger



January 13, 2004

Mr. Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, ND 58501-1882

Re: ITC Group v. Qwest Communications – NDPSC Case No. PU-2829-03-83

Dear Mr. Hoberg:

In response to your letter of January 7, 2004, settlement negotiations are continuing between the parties. If, by January 23, 2004, it appears unlikely that settlement of this matter can be reached, Qwest will submit a proposed procedural order for your consideration.

Sincerely,


Daniel S. Kuntz

c. William W. Binek
Donald A. Negaard
Chuck Steese
Scott Macintosh
Tim Goodwin

34 PU-2829-03-83

Pages 1



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C Hoberg
DIRECTOR

JAN - 8 2004

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

January 7, 2004

Mr Daniel S. Kuntz
Zuger Kirmis & Smith
P O Box 1695
Bismarck, ND 58502

Mr. Donald A. Negaard
Pringle & Herigstad, PC
P.O Box 1000
Minot, ND 58702

RE: ITC Group vs. Qwest Communications - PU-2829-03-83

Counsel

On October 2, 2003, at the request of counsel for the parties, I issued a Commission Order to Extend Temporary Stay Pursuant to that order the parties were to reach an accord by October 31, 2003, submit a joint request to extend the stay or submit a joint request for a procedural conference on this matter I have not heard from the parties since issuing that order Please advise me as to the status of this matter so that I can take appropriate action

Sincerely,

Allen C Hoberg
Administrative Law Judge

ACH/ljc

cc Mr. William W. Binek, PSC

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

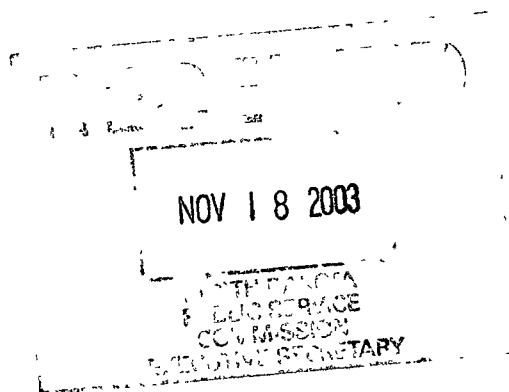
Lyle W Kirmis
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www.zkslaw.com
email zkslaw@zkslaw.com

Of Counsel
John A Zuger

Thomas O Smith
1944-2001

November 18, 2003



Mr Jon Mielke
Executive Secretary
ND Public Service Commission
600 East Boulevard Avenue -- 12th Floor
Bismarck, ND 58505-0480

**Re: BEK Communications Cooperative, et al. v. Qwest Communications
Case No. PU-2829-03-83**

Dear Mr. Mielke:

Enclosed are the original and seven copies of a Notice of Change in Distribution List.
Please call me if you have any questions.

Sincerely,

Daniel S. Kuntz

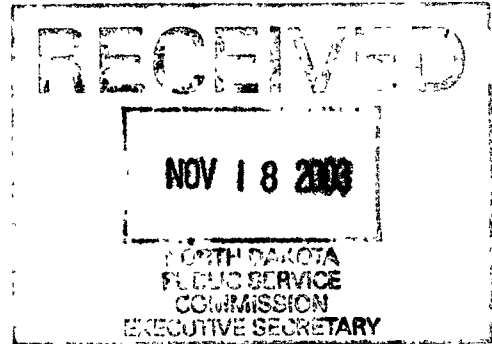
Enclosures

c Chuck Steese
Tim Goodwin
Scott Macintosh
Don Negaard
Tom Moorman

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs)
 County Telephone Company, Inter-)
 Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Co., North Dakota Telephone)
 Company, Northwest Communications)
 Cooperative, Polar Communications)
 Mutual Aid Corporation, Reservation)
 Telephone Cooperative, SRT)
 Communications, Inc., West River)
 Telecommunications, Inc., West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc.)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

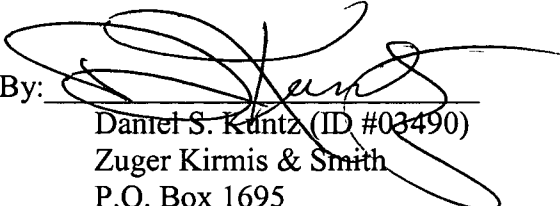


Case No. PU-2829-03-83

NOTICE OF CHANGE IN DISTRIBUTION LIST

PLEASE TAKE NOTICE that effective immediately attorney for Qwest Corporation Stephanie Boyett-Colgan's name is to be removed from the Distribution List and Certificate of Service.

Respectfully submitted this 18th day of November, 2003.

By: 
Daniel S. Kuntz (ID #03490)
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695
(701) 223-2711

Charles W. Steese
Sandra L. Potter
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs)
County Telephone Company, Inter-)
Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Co., North Dakota Telephone)
Company, Northwest Communications)
Cooperative, Polar Communications)
Mutual Aid Corporation, Reservation)
Telephone Cooperative, SRT)
Communications, Inc., West River)
Telecommunications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc.)
)
Complainants,)
)
vs.)
)
Qwest Communications,)
)
Respondent.)

Case No. PU-2829-03-83

AFFIDAVIT OF MAILING

STATE OF NORTH DAKOTA)
: ss.
COUNTY OF BURLEIGH)

The undersigned, being duly sworn, deposes and says that: I am a United States citizen, over 18 years of age, and on November 18, 2003, I served a copy of the attached:

QWEST NOTICE OF CHANGE IN DISTRIBUTION LIST

By placing a true copy in a postage paid envelope addressed to each person named below, at the address stated below, which is the last known address of the addressee, and by depositing said envelope in the United States mail at Bismarck, North Dakota.

Don Negaard
Pringle & Herigstad
Post Office Box 1000
Minot, ND 58702-1000

Thomas J. Moorman
Kraskin, Lesse & Cosson, LLC
2120 L Street, Suite 520
Washington, DC 20037

Karl A. Condo

Subscribed and sworn to me, today, November 18, 2003.

NOTARY PUBLIC

State of North Dakota

My commission expires: 9-5-04

Valerie A. Reapaldt

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)	
Consolidated Telcom, Dakota Central)	
Telecommunications Cooperative, Dickey)	CASE NO PU-2829-03-83
Rural Telephone Cooperative, Griggs County)	
Telephone Company, Inter-Community)	
Telephone Company, LLC, Midstate)	
Telephone Company, Midstate)	
Communications, Inc., Moore & Liberty)	
Telephone Company, North Dakota)	
Telephone Company, Northwest)	COMMISSION ORDER TO
Communications Cooperative, Polar)	EXTEND TEMPORARY STAY
Communications Mutual Aid Corporation,)	
Reservation Telephone Cooperative,)	
SRT Communications, Inc., Turtle Mountain)	
Communications, Inc., United Telephone)	
Mutual Aid Corporation, West River)	
Telecommunications Cooperative, Dakota)	
Carrier Network, LLC, and Illuminet, Inc.,)	
)	
Complainants,)	
)	
-vs-)	
)	
Qwest Communications,)	
)	
Respondent)	

.....

The North Dakota Public Service Commission (“Commission”) through its designated Hearing Officer, having considered the Joint Motion to Stay submitted by Complainants and Respondent pursuant to North Dakota Administrative Code § 69-02-02-08, and upon good cause shown, hereby enters an Order extending the temporary stay in the case through October 31, 2003, again subject to the following conditions:

1. All pending dates including, but not limited to, (1) discovery deadlines including outstanding response times to pending discovery, (2) dates for filing testimony, and (3) hearing dates, are hereby vacated and extended for at least the length of time that the Temporary Stay is in place.

2. The Temporary Stay will not prohibit any party from seeking additional extensions of time to the schedule as necessary or otherwise for good cause shown

3. No party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

If the Parties are unable to reach an accord on or before October 31, 2003, the Parties shall either submit a request to extend the Temporary Stay on or before that date, or submit a joint request for a procedural conference for the purpose of determining a new procedural schedule for this case.

Dated at Bismarck, North Dakota this 2nd day of October, 2003.

State of North Dakota
Public Service Commission

By: 

Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF)
)
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L C , and Illuminet, Inc.,)
)
Complainants,)
vs)
)
Qwest Communications,)
)
Respondent.)

**CERTIFICATE
OF SERVICE**

.....

The undersigned certifies that true and correct copies of the **COMMISSION ORDER TO EXTEND TEMPORARY STAY** were mailed, regular mail, on the 2 day of October, 2003, to.

Donald A. Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702

Thomas Moorman
Kraskin, Lesse & Cosson, LLP
2120 L Street - Suite 520
Washington, DC 20037

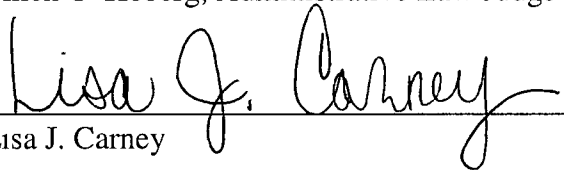
Daniel S. Kuntz
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502

Charles W. Steese
Steese & Evans, P.C.
6400 S. Fiddlers Green Circle - Suite 1820
Denver, CO 80111

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol, on the 2 day of October, 2003, to:

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C Hoberg, Administrative Law Judge



Lisa J. Carney

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

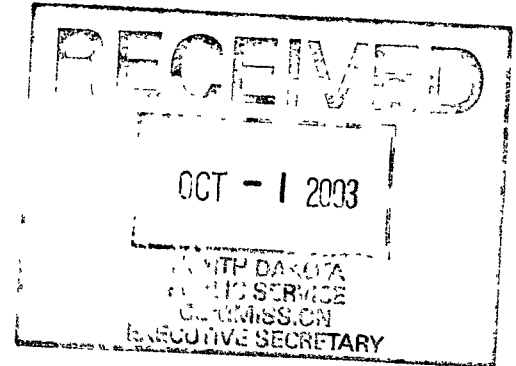
Lyle W Kirmis
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fax (701) 223-7387
www.zkslaw.com
email zkslaw@zkslaw.com

Of Counsel
John A Zuger

Thomas O Smith
1944-2001

October 1, 2003



Mr. Jon Mielke
Executive Secretary
ND Public Service Commission
600 East Boulevard Avenue -- 12th Floor
Bismarck, ND 58505-0480

**Re: BEK Communications Cooperative, et al. v. Qwest Communications
Case No. PU-2829-03-83**

Dear Mr. Mielke:

Enclosed are the original and seven copies of a Joint Motion to Renew the Temporary Stay to Facilitate Settlement Discussions in the above-referenced proceeding. By this stay, the parties are jointly requesting the Commission to extend the temporary stay granted in this case on August 22, 2003 until October 31, 2003 to provide the parties with additional time to determine whether settlement of the case is possible. Please note that the signature page for Mr. Negaard and Mr. Moorman is a faxed copy. The original signature page will be filed with the Commission as soon as it is received from Mr. Moorman.

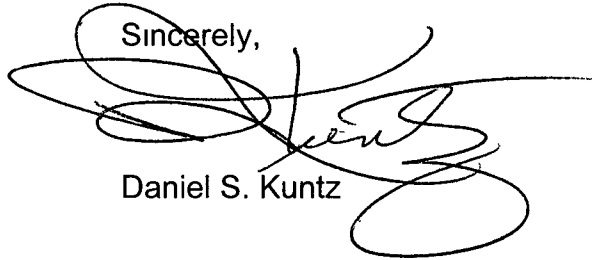
A proposed order is also enclosed for the Commission and Hearing Officer's consideration.

October 1, 2003

Page 2

A copy of this letter, motion and proposed order is being provided to Hearing Officer Hoberg.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Kuntz', is written over the word 'Sincerely,'. The signature is stylized and somewhat illegible due to overlapping loops.

Daniel S. Kuntz

Enclosures

c: Allen Hoberg, Hearing Officer
Chuck Steese
Tim Goodwin
Scott Macintosh
Don Negaard
Tom Moorman

P:\DKUNTZ\11106 Qwest ITC et al\1-mielke4 doc

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs County)
Telephone Company, Inter-Community)
Telephone Company, LLC, Midstate)
Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
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Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative,)
SRT Communications, Inc., Turtle Mountain)
Communications, Inc., United Telephone)
Mutual Aid Corporation, West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc.,)
)
Complainants,)
)
-vs-)
)
Qwest Communications,)
)
Respondent.)

CASE NO PU-2829-03-83



**JOINT MOTION TO RENEW THE TEMPORARY STAY TO FACILITATE
SETTLEMENT DISCUSSIONS**

Pursuant to North Dakota Administrative Code § 69-02-02-08, ITC Group, DCN, Illuminet, and Qwest Corporation (collectively “the Parties”) respectfully request that the North Dakota Public Service Commission (“Commission”), through its designated Hearing Officer, further stay this case through October 31, 2003, to provide the Parties with additional time to determine whether settlement of the case is possible. Just as with the original request for a stay,

the Parties ask that the Commission again condition the temporary stay upon the same conditions Specifically:

1 All pending dates including, but not limited to, (1) discovery deadlines including outstanding response times to pending discovery, (2) dates for filing testimony, and (3) hearing dates, must be vacated and extended for at least the length of time that the temporary stay is in place In other words, if the Parties' settlement discussions do not resolve the case, all dates in the Commission's original Procedural Order would be extended by at least four additional weeks. This will ensure that the temporary stay is not used as, or does not result in, prejudice to any party.

2. The temporary stay will not prohibit any party from seeking additional extensions of time to the schedule as necessary for good cause shown.

3. The Parties agree that no party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

The Parties therefore respectfully request that the Commission, through its designated Hearing Officer, enter the attached order extending the temporary stay in this case effective immediately. A proposed form of order is attached for Commission approval.

Respectfully submitted,

Dated: _____

By: _____

Don Negaard
Pringle & Herigstad, P C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

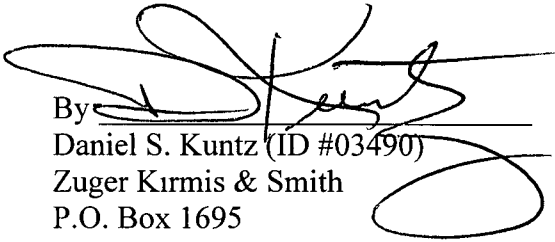
Dated _____

By: _____

Thomas J. Moorman
Kraskin, Lesse & Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

Attorneys for Illuminet

Dated: 10/1/03

By: 

Daniel S. Kuntz (ID #03490)
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695
(701)223-2711

Stephanie Boyett-Colgan
Senior Attorney
Qwest Corporation
1801 California, 47th Floor
Denver, Colorado 80202
Telephone. (303) 896-0784
scolgan@qwest.com

Charles W. Steese
Sandra L. Potter
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

Respectfully submitted,

Dated: 10/1/03

By: Don Negaard
Don Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

Dated: 10/1/03

By: Thomas J. Moorman
Thomas J. Moorman
Kraskin, Lesse & Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

Attorneys for Illuminet

Dated: _____

By: _____
Daniel S. Kuntz (ID #03490)
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695
(701)223-2711

Stephanie Boyett-Colgan
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Qwest Corporation
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scolgan@qwest.com

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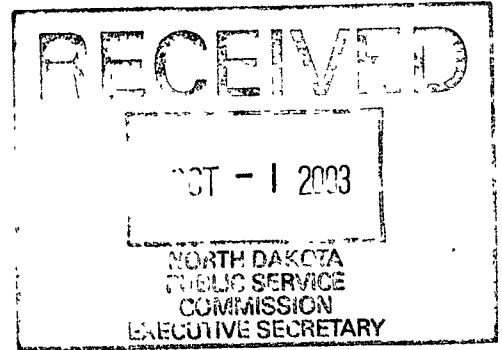
Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
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 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc.,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent.)

CASE NO. PU-2829-03-83

**COMMISSION ORDER TO
EXTEND TEMPORARY STAY**



.....

The North Dakota Public Service Commission ("Commission") through its designated Hearing Officer, having considered the Joint Motion to Stay submitted by Complainants and Respondent pursuant to North Dakota Administrative Code § 69-02-02-08, and upon good cause shown, hereby enters an Order extending the temporary stay in the case through October 31, 2003, again subject to the following conditions:

1. All pending dates including, but not limited to, (1) discovery deadlines including outstanding response times to pending discovery, (2) dates for filing testimony, and (3) hearing dates, are hereby vacated and extended for at least the length of time that the Temporary Stay is in place.

2. The Temporary Stay will not prohibit any party from seeking additional extensions of time to the schedule as necessary or otherwise for good cause shown.

3. No party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

If the Parties are unable to reach an accord on or before October 31, 2003, the Parties shall either submit a request to extend the Temporary Stay on or before that date, or submit a joint request for a procedural conference for the purpose of determining a new procedural schedule for this case.

Dated at Bismarck, North Dakota this ____ day of October, 2003.

State of North Dakota
Public Service Commission

By: _____

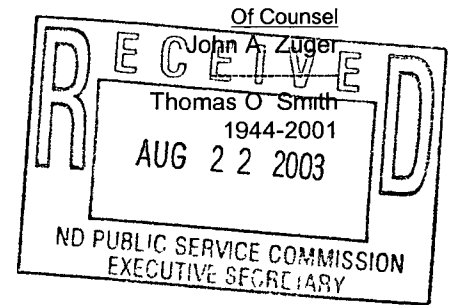
Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701)328-3260

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

Lyle W Kirmis
Lance D Schreiner, P C
James S Hill, P C
Patrick J Ward
Rebecca S Thiem, P C
Daniel S Kuntz, P C
Jerry W Evenson, P C
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fax (701) 223-7387
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email zkslaw@zkslaw.com



August 21, 2003

Mr Jon Mielke
Executive Secretary
ND Public Service Commission
600 East Boulevard Avenue -- 12th Floor
Bismarck, ND 58505-0480

**Re: BEK Communications Cooperative, et al. v. Qwest Communications
Case No. PU-2829-03-83**

Dear Mr. Mielke:

Enclosed is the original signature page with the signatures of Mr. Negaard and Mr. Moorman for the Joint Motion to Temporarily Stay Case to Facilitate Settlement Discussions that was filed with the Commission on August 20, 2003.

Sincerely,



Daniel S. Kuntz

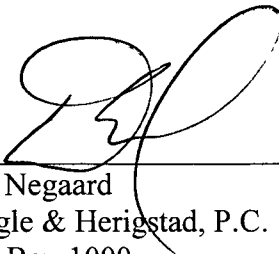
Enclosure

c. Don Negaard

P:\DKUNTZ\11106 Qwest ITC et al\l-mielke2.doc

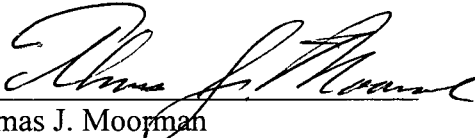
Respectfully submitted,

Dated 8/20/03

By: 
Don Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and Dakota Carrier
Network, L.L.C.

Dated: 8/20/03

By: 
Thomas J. Moorman
Kraskin, Lesse & Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

Attorney for Illuminet, Inc.

Dated: _____

By: _____
Daniel S. Kuntz (ID #03490)
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695
(701)223-2711

Stephanie Boyett-Colgan
Senior Attorney
Qwest Corporation
1801 California, 47th Floor
Denver, Colorado 80202
Telephone: (303) 896-0784
scolgan@qwest.com

Charles W. Steese
Sandra L. Potter
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6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
))
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,))
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L C., and Illuminet, Inc.,))
))
Complainants,)
vs.)
))
Qwest Communications,)
))
Respondent.)

COMMISSION ORDER
TEMPORARILY STAYING CASE

.....

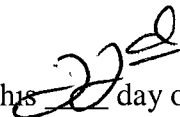
The North Dakota Public Service Commission (“Commission”), having considered the Joint Motion to Stay submitted by Complainants and Respondent pursuant to North Dakota Administrative Code § 69-02-20-08, and upon good cause shown, hereby enters an order temporarily staying the case until October 1, 2003, subject to the following conditions:

1. All pending dates set forth in the commission’s scheduling order of July 15, 2003, including, but not limited to, (1) discovery deadlines including outstanding response times to pending discovery, (2) dates for filing testimony, and (3)

hearing dates, are hereby vacated and extended for at least the length of time that this temporary stay is in place.

2. The temporary stay ordered herein will not prohibit any party from seeking additional extensions of time of the existing procedural schedule for good cause shown.
3. No party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

If the parties are unable to reach an accord on or before October 1, 2003, the parties shall either submit a joint request to extend the temporary stay on or before that date, or submit a joint request for a procedural conference for the purpose of determining a revised scheduling order for this case.

Dated at Bismarck, North Dakota this  day of August, 2003.

State of North Dakota
Public Service Commission

By: 

Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701) 328-3260

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)

CERTIFICATE OF SERVICE

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C , and Illuminet, Inc.,)

Complainants,)

vs.)

Qwest Communications,)

Respondent.)

The undersigned certifies that a true and correct copy of the COMMISSION ORDER TEMPORARILY STAYING CASE was mailed, regular mail, on the 22nd day of August, 2003, to:

Mr. Donald A. Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702

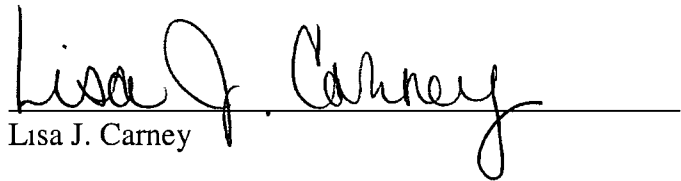
Mr. Thomas Moorman
Kraskin, Lesse & Cosson, LLP
2120 L Street - Suite 520
Washington, DC 20037

Mr. Daniel S. Kuntz
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol, on the 22 day of August, 2003, to:

Mr William W. Binek
Hearing Administrator
Public Service Commission
600 E. Boulevard Avenue - Dept. 408
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge


Lisa J. Carney

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

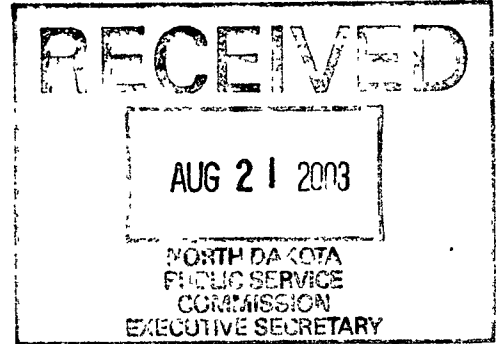
Lyle W Kirmis
Lance D Schreiner, P C
James S Hill, P C
Patrick J Ward
Rebecca S Thiem, P C
Daniel S Kuntz, P C
Jerry W Evenson, P C
Lawrence A Dopson
Lawrence E King, P C
Tracy Vigness Kolb, P C
Shawnda R Reid
Constance N Hofland
Paul R Sanderson

316 North Fifth Street
Provident Building
P O Box 1695
Bismarck, ND 58502-1695
(701) 223-2711
fax (701) 223-7387
www.zkslaw.com
email zkslaw@zkslaw.com

Of Counsel
John A Zuger

Thomas O Smith
1944-2001

August 20, 2003



Mr Jon Mielke
Executive Secretary
ND Public Service Commission
600 East Boulevard Avenue -- 12th Floor
Bismarck, ND 58505-0480

**Re: BEK Communications Cooperative, et al. v. Qwest Communications
Case No. PU-2829-03-83**

Dear Mr Mielke:

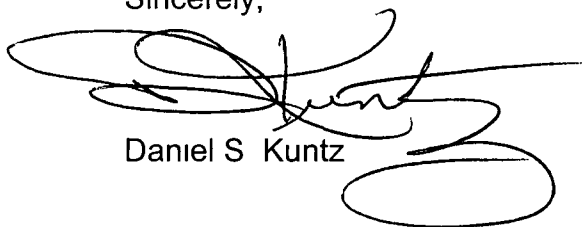
Enclosed are the original and seven copies of a Joint Motion to Temporarily Stay Case to Facilitate Settlement Discussions in the above-referenced proceeding. By this case, the parties are jointly requesting the Commission to temporarily stay this case including all pending dates set forth in the Scheduling Order entered by the Hearing Officer on July 15, 2003. The parties request a stay until October 1, 2003 to provide the parties with focus time to determine whether settlement of the case is possible. Please note that the signature page for Mr. Negaard and Mr. Moorman is a faxed copy. We will file the original signature page with the Commission as soon as it is received from Mr. Negaard.

A proposed order is also enclosed for the Commission and Hearing Officer's consideration.

August 20, 2003
Page 2

A copy of this letter, motion and proposed order is being provided to Hearing Officer Hoberg.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel S. Kuntz", with a large, sweeping flourish extending to the right and a circular mark below it.

Daniel S Kuntz

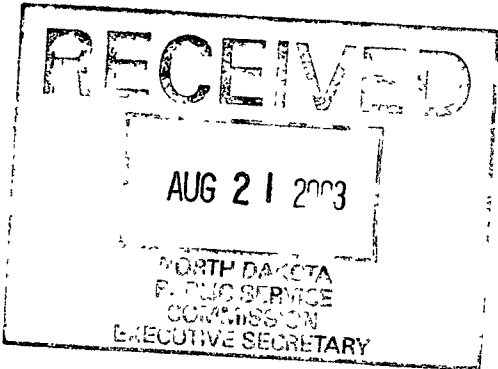
Enclosures

- c Allen Hoberg, Hearing Officer
- Chuck Steese
- Tim Goodwin
- Scott Macintosh
- Don Negaard
- Tom Moorman

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
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 Telephone Company, Northwest)
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 Reservation Telephone Cooperative,)
 SRT Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc ,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent)

CASE NO. PU-2829-03-83



**JOINT MOTION TO TEMPORARILY STAY CASE TO FACILITATE
SETTLEMENT DISCUSSIONS**

Pursuant to North Dakota Administrative Code § 69-02-02-08, ITC Group, DCN and Illuminet, and Qwest Corporation (collectively “the Parties”) respectfully request that the North Dakota Public Service Commission (“Commission”) temporarily stay this case until October 1, 2003, to provide the Parties with focused time to determine whether settlement of the case is possible. If permissible to the Commission, the Parties have

agreed to focus their attention on the possibility of a region-wide settlement over the next six weeks. The focus on settlement discussions is contingent upon the Commission staying this case to ensure sufficient resources are available to discuss settlement. To ensure that the requested stay prejudices no party, the Parties have conditioned their request upon certain conditions, which include the following. Specifically:

1 All pending dates including, but not limited to, (1) discovery deadlines including outstanding response times to pending discovery, (2) dates for filing testimony, and (3) hearing dates, must be vacated and extended for at least the length of time that the temporary stay is in place. In other words, if the Parties' settlement discussions do not resolve the case, all dates in the Commission's Scheduling Order would be extended by at least six weeks. This will ensure that the requested temporary stay is not used for, or does not result in, prejudice to any party


2. The temporary stay will not prohibit any party from seeking additional extensions of time of the existing procedural schedule as necessary for good cause shown.

3 The Parties agree that no party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

The Parties therefore respectfully request that the Commission enter an order granting a temporary stay in this case effective immediately. A proposed form of order is attached for Commission approval.

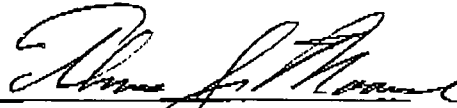
Respectfully submitted,

Dated: 8/20/03

By: 
Don Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and Dakota Carrier
Network, L.L.C.

Dated: 8/20/03

By: 
Thomas J. Moorman
Kraskin, Lesse & Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

Attorney for Illuminet, Inc.

Dated: _____

By: _____
Daniel S. Kuntz (ID #03490)
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695
(701)223-2711

Stephanie Boyett-Colgan
Senior Attorney
Qwest Corporation
1801 California, 47th Floor
Denver, Colorado 80202
Telephone: (303) 896-0784
scolgan@qwest.com

Charles W. Steese
Sandra L. Potter
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Respectfully submitted,

Dated: _____

By: _____

Don Negaard
Pringle & Herigstad, P C.
P.O. Box 1000
Minot, ND 58702-1000

Attorneys for ITC Group and DCN

Dated: _____

By: _____

Thomas J Moorman
Kraskin, Lesse & Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037

Attorneys for Illuminet

Dated 8/20/03

By: _____

Daniel S. Kuntz (ID #03490)
Zuger Kirmis & Smith
P O. Box 1695
Bismarck, ND 58502-1695
(701)223-2711

Stephanie Boyett-Colgan
Senior Attorney
Qwest Corporation
1801 California, 47th Floor
Denver, Colorado 80202
Telephone: (303) 896-0784
scolgan@qwest.com

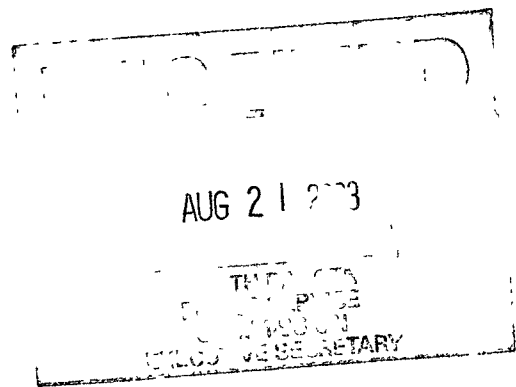
Charles W. Steese
Sandra L. Potter
STEESE & EVANS, P.C.
6400 South Fiddlers Green
Suite 1810
Denver, Colorado 80111
Telephone: (720) 200-0676

Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs County)
Telephone Company, Inter-Community)
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SRT Communications, Inc , Turtle Mountain)
Communications, Inc , United Telephone)
Mutual Aid Corporation, West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc.,)
)
Complainants,)
)
-vs-)
)
Qwest Communications,)
)
Respondent.)

CASE NO PU-2829-03-83



COMMISSION ORDER TEMPORARILY STAYING CASE

The North Dakota Public Service Commission (“Commission”), having considered the Joint Motion to Stay submitted by Complainants and Respondent pursuant to North Dakota Administrative Code § 69-02-20-08, and upon good cause shown, hereby enters an Order temporarily staying the case until October 1, 2003 subject to the following conditions:

1. All pending dates set forth in the Commission's Scheduling Order of July 15, 2003 including, but not limited to, (1) discovery deadlines including outstanding response times to pending discovery, (2) dates for filing testimony, and (3) hearing dates, are hereby vacated and extended for at least the length of time that this temporary stay is in place

2 The temporary stay ordered herein will not prohibit any party from seeking additional extensions of time of the existing procedural schedule for good cause shown

3. No party has waived any issue, or admitted any liability or responsibility by entering into settlement negotiations.

If the parties are unable to reach an accord on or before October 1, 2003, the Parties shall either submit a joint request to extend the temporary stay on or before that date or, submit a joint request for a procedural conference for the purpose of determining a revised scheduling order for this case.

Dated: _____

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
))
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc.,)
))
Complainants,)
vs.)
))
Qwest Communications,)
))
Respondent.)

SCHEDULING ORDER

.....

On July 9, 2003, counsel for the parties, counsel for the Public Service Commission, and the hearing officer met in telephone conference to discuss the Complainants' Proposed Scheduling Order. The Respondent made some counterproposals and the Complainants responded. The hearing officer took the matter under advisement and now issues the following scheduling order in this matter.

For purposes of this scheduling order, "filing" means that the party required to file a document will actually have the original of the filed document in the Public Service Commission's office no later than 5:00 p.m. on the required filing date. Compliance with the filing requirement is met if the document is filed via fax or electronically with the Commission, provided that the document is also filed within three (3) days of the fax or electronic filing by means of a hard copy being actually in the Commission's office through the U.S. mail or similar alternative carrier. Filing a document also requires that all of the other parties and the hearing officer have a copy of the filed document on the same day that the document is filed with the Commission. Again, compliance with the filing requirement with regard to other parties is met if the document is filed via fax or electronically, provided that the document is also filed within three (3) days of the fax or electronic filing by means of a hard copy being actually in the parties hands through the U.S. Mail or similar alternative carrier. The required days for filing shall be calendar days unless otherwise stated.

1 Discovery.

The parties may begin discovery immediately upon their receipt of this order. Discovery shall be conducted in accordance with N.D.C.C. Chapter 28-32, N.D. Admin. Code article 98-02, and N.D. Admin. Code article 69-02, except that motions to compel discovery shall be governed by paragraph 2 below.

No discovery shall be conducted after December 15, 2003.

2. Motions to compel.

To the extent a Motion to Compel is necessary to discover information that a party believes to be relevant information, the party may file a written motion to compel. Responses to

Motions to Compel shall be filed within five (5) business days of filing of the motion. If desired, a party may file a reply brief within three (3) business days of the filing of the response.

3. Dispositive motions.

Dispositive Motions must be filed no later than December 1, 2003. Response briefs shall be filed within fifteen (15) days after filing of the dispositive motion and any reply brief must be filed within seven (7) days of the filing of a response brief.

4. Pre-filed testimony.

Complainants shall file their pre-filed testimony on or before September 15, 2003. Qwest shall file its pre-filed responsive testimony on or before November 14, 2003. Complainants shall file their pre-filed rebuttal testimony on or before December 15, 2003.

5. Hearing date.

The hearing is scheduled to be held on January 12-16, 2004. A notice of hearing will be issued by the Public Service Commission as soon as possible.

6. Post-hearing briefs.

Simultaneous post-hearing briefs, proposed findings of fact and conclusions of law, and a proposed order shall be filed by the parties no later than thirty (30) days after the transcript of the hearing is available to the parties. Simultaneous post-hearing reply briefs shall be filed no later than fourteen (14) days after the filing of post-hearing briefs.

Requests for reasonable extension of any of the deadlines in this scheduling order may be granted by the hearing officer upon a showing of good cause for granting the extension.

The parties need not serve the hearing officer or Commission staff with discovery documents, unless a request to conduct discovery, motion to compel, or other request or motion requiring a response from the hearing officer is made.

Dated at Bismarck, North Dakota, this 15th day of July, 2003.

State of North Dakota
Public Service Commission

By:



Allen C. Hoberg, Hearing Officer
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701) 328-3260

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
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Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc , West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L L.C., and Illuminet, Inc.,)
)
Complainants,)
vs.)
)
Qwest Communications,)
)
Respondent.)

**CERTIFICATE
OF SERVICE**

.....

The undersigned certifies that true and correct copies of the **SCHEDULING ORDER** were mailed, regular mail, on the 5th day of July, 2003, to:

Donald A. Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702

Thomas Moorman
Kraskin, Lesse & Cosson, LLP
2120 L Street - Suite 520
Washington, DC 20037

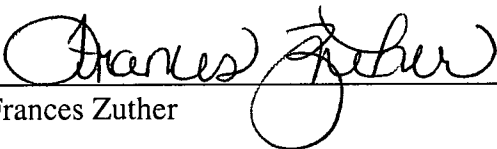
Daniel S Kuntz
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502

Charles W. Steese
Steese & Evans, P.C.
6400 S. Fiddlers Green Circle - Suite 1820
Denver, CO 80111

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol, on the 15th day of July, 2003, to:

William W. Binek
Hearing Administrator
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge



Frances Zuther



LAW OFFICES OF
PRINGLE & HERIGSTAD, P.C.

BREMER BANK BUILDING
20 SW 1ST STREET
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702
(701) 852-0381
FAX (701) 857-1361
E-mail pringle@srt.com

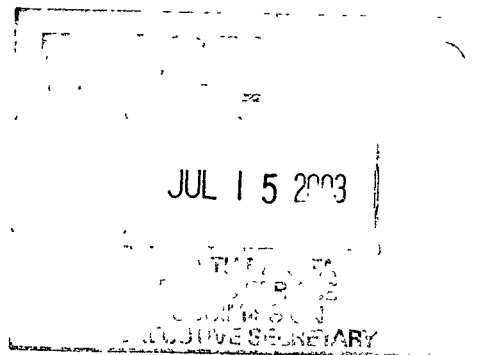
OF COUNSEL
HERBERT L. MESCHKE

RETIRED
THOMAS A. WENTZ
MARK F. PURDY
JAN M. SEBBY

ROGER O. HERIGSTAD
(1919-2003)

DONALD A. NEGAARD
JAMES E. NOSTDAHL
CAROL K. LARSON
DAVID J. HOGUE
REED A. SODERSTROM
MARK R. HAYS
BRENT M. OLSON
DENISE C. HAYS
DEBRA L. HOFFARTH
SCOTT M. KNUDSVIG

July 14, 2003



Jon H. Mielke, Executive Secretary
PUBLIC SERVICE COMMISSION
State Capitol
Bismarck, ND 58505-0480

**QWEST COMMON CHANNEL SIGNALING MODIFICATION TARIFF PU-2342-03-361
COMPLAINT, OBJECTIONS AND REQUEST FOR DOCKETING OF BEK
COMMUNICATIONS, ET AL**

Enclosed for filing are an original and seven copies of a Complaint, Objections and Request for Docketing of BEK Communications, Consolidated Telcom, Dakota Central Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company, LLC, Midstate Telephone Company, Midstate Communications, Inc., Moore & Liberty Telephone Company, North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, Reservation Telephone Cooperative, SRT Communications, Inc., United Telephone Mutual Aid Corporation, Turtle Mountain Communications, Inc., West River Telecommunications Cooperative, Dakota Carrier Network, Inc., and Illuminet, Inc.

Don Negaard

jt

Enclosures

21

PU-2829-03-83

Pages 1

Cover letter re Complaint, Objections and Request for Docketing by RTCG & Illuminet Inc

07/15/2003

CC Comm Legal Ilona Pat Mike

3

PU-2342-03-361

Pages 1

Cover letter re Complaint, Objections and Request for Docketing by RTCG & Illuminet, Inc

07/15/2003

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

JUL 15 2003

IN RE:

QWEST COMMON CHANNEL
SIGNALING MODIFICATION
TARIFF PU-2342-03-361

Case No. _____

) COMPLAINT, OBJECTIONS
) AND REQUEST FOR
) DOCKETING OF BEK
) COMMUNICATIONS,
) CONSOLIDATED TELCOM,
) DAKOTA CENTRAL
) TELECOMMUNICATIONS
) COOPERATIVE, DICKEY
) RURAL TELEPHONE
) COOPERATIVE, GRIGGS
) COUNTY TELEPHONE
) COMPANY, INTER-
) COMMUNITY TELEPHONE
) COMPANY, LLC, MIDSTATE
) TELEPHONE COMPANY,
) MIDSTATE
) COMMUNICATIONS, INC.,
) MOORE & LIBERTY
) TELEPHONE COMPANY,
) NORTH DAKOTA TELEPHONE
) COMPANY, NORTHWEST
) COMMUNICATIONS
) COOPERATIVE, POLAR
) COMMUNICATIONS MUTUAL
) AID CORPORATION,
) RESERVATION TELEPHONE
) COOPERATIVE, SRT
) COMMUNICATIONS, INC.,
) UNITED TELEPHONE
) MUTUAL AID CORPORATION,
) TURTLE MOUNTAIN
) COMMUNICATIONS, INC.,
) WEST RIVER
) TELECOMMUNICATIONS
) COOPERATIVE, DAKOTA
) CARRIER NETWORK, L.L.C.,
) and ILLUMINET, INC.

On June 23, 2003, Qwest Corporation (“Qwest”) filed proposed tariff pages (the “June 23 SS7 Message Tariff Revisions”) intending to modify its prior Signaling System No. 7 (“SS7”) message access tariff. The prior tariff was filed to amend section 15 of Qwest’s North Dakota Access Service Price Schedule on July 31, 2001. The June 23 SS7 Message Tariff Revisions are, according to representations made by Qwest to the RTCG companies and Illuminet, Inc. (“Illuminet”) (collectively the “Complainants”), intended to address some of the issues raised by the Complainants in their formal complaint docketed in Case No. PU-2829-03-83. As the Commission is aware, the Complainants have, in Case No. PU-2829-03-83, challenged Qwest’s implementation and application of SS7 message charges to certain types of SS7 message traffic between Qwest and the RTCG companies.

For the reasons stated herein, the Complainants submit that the instant tariff filing requires further revision to clarify certain critical provisions regarding its application. Specifically, the Complainants continue to have concerns about potential ambiguity within the terms and conditions filed in the June 23 SS7 Message Tariff Revisions regarding, among others, the process for establishing the “Percent Other Message” (“POM”) and other issues relating to the implementation of the revised terms and conditions. Similarly, the Complainants have concerns regarding the “0%” default POM proposed by Qwest and the application of that default to entities like the RTCG companies that utilize third-party SS7 providers such as Illuminet. The Complainants have been and continue to discuss these matters with Qwest in an effort to work cooperatively through these issues, and the Complainants are pleased to report that Qwest has provided a firm written commitment that the Complainants have correctly interpreted

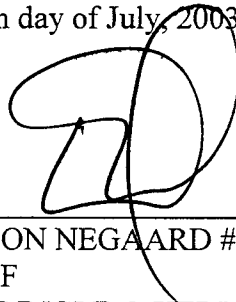
Qwest's intended implementation and application of the June 23 SS7 Message Tariff Revisions. Similarly, Qwest has indicated that it is currently considering both the POM default issue and the other suggested further tariff revisions provided by Complainants to address any potential ambiguity regarding Qwest's intended implementation and application of the revised SS7 message structure at issue. Unfortunately, however, Qwest has also indicated that agreement on revised tariff terms and conditions to reflect the proper interpretation and implementation of the currently filed tariff revisions will not be completed before the tariff is scheduled to take effect on July 21, 2003.

Accordingly, and in light of the timing of these matters, the Complainants object to the Qwest tariff revisions at this time and request that, as described below, the Commission docket this tariff for further review. Complainants also request, however, to hold this complaint in abeyance and allow the tariff to go into effect subject to the outcome of Qwest's commitments to review the tariff changes provided by Complainants. Once that process is completed, the Complainants respectfully suggest that the Commission would then actively consider this matter should Qwest not file and have approved revised tariff language that resolves the issues that Complainants' proposed tariff changes would address. Complainants note that this request for abeyance is being made as a good faith gesture but is done without waiver of any and all rights the Complainants have should changes to the June 23 SS7 Message Tariff Revisions fail to address each of Complainants' concerns.

The Complainants respectfully submit that Commission action consistent with this request will clearly advance the public interest. A grant of the requested relief will allow the industry to continue discussions with Qwest on proposed changes to the terms

and conditions to the June 23 SS7 Message Tariff Revisions in the hope of narrowing or eliminating their concerns. Allowing the tariff to go into effect but with this proceeding temporarily held in abeyance will allow the benefit of the reduced SS7 message charges to the RTCG companies arising from the institution of a POM, to the benefit of the customers they serve. Further, the relief being requested herein may also narrow the scope of the issues currently pending in Case No. PU-2829-03-83. Thus, Complainants respectfully request that the Commission take action regarding the June 23 SS7 Message Tariff Revisions in a manner consistent with that stated herein.

Respectfully submitted this 14th day of July, 2003.



DON NEGAARD #03598
OF
PRINGLE & HERIGSTAD, P.C.
Second Floor, Bremer Bank Building
20 1st Street SW
P.O. Box 1000
Minot, ND 58702-1000
Telephone: (701) 852-0381
FAX: (701) 857-1361
E-mail: pringle@ndak.net

THOMAS J. MOORMAN
OF
KRASKIN, LESSE AND COSSON, LLC
2120 L Street N.W., Suite 520
Washington D.C. 20037
Telephone: (202) 296-8890
FAX: (202) 296-8893
E-mail: tmoorman@klctele.com

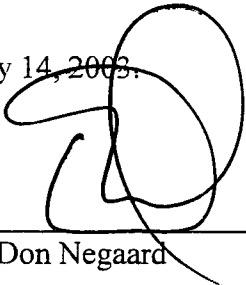
ATTORNEY FOR ILLUMINET, INC

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on the following by regular mail on the date indicated:

North Dakota Public Service Commission
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

Dated in Minot, North Dakota, on July 14, 2003.



Don Negaard

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
))
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,))
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
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Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc ,)
))
Complainants,)
vs.)
))
Qwest Communications,)
))
Respondent.)

**NOTICE OF
PREHEARING CONFERENCE**

.....

YOU ARE HEREBY NOTIFIED that a prehearing conference on this matter will be held on July 9, 2003, beginning at 2:00 pm (CT) 3:00 pm (ET) in Bismarck, North Dakota. The prehearing conference will be a telephone conference call originating from the administrative law judge's (ALJ's) office. The ALJ will call counsel at their office (Mr. Negaard - (701) 852-0381; Mr. Moorman - (202) 296-8890; Mr. Kuntz (701) 223-2711; and Mr. Binek (701) 328-4088) unless otherwise informed.

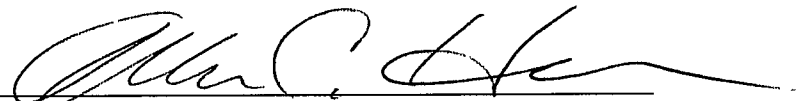
The purpose of this prehearing conference is for counsel to discuss with the ALJ matters involved in this administrative action, including discovery, issues, witnesses, documentary evidence, anticipated motions, scheduling a hearing, if necessary, and other preliminary matters. Opportunity will be given counsel to discuss any of the problems confronting them. The prehearing conference will be tape-recorded, and will be conducted in an informal manner.

A procedural order will result from this conference. The ALJ may also issue a Notice of Hearing.

Attendance at the prehearing conference is necessary to result in an orderly and timely disposition of this matter. Your cooperation is appreciated.

Dated at Bismarck, North Dakota this 15th day of July, 2003.

State of North Dakota
Public Service Commission

By: 
Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701) 328-3260

AMERICANS WITH DISABILITIES ACT NOTIFICATION: A party shall promptly notify the administrative law judge if the party or a witness to be called by the party has a disability which will require auxiliary aids or services at the hearing, so that appropriate accommodation can be made prior to the hearing.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Griggs)
County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc., United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc.,))
)
Complainants,)
vs.)
)
Qwest Communications,)
)
Respondent.)

CERTIFICATE OF SERVICE

.....

The undersigned certifies that a true and correct copy of the **NOTICE OF PREHEARING CONFERENCE** was mailed, regular mail, on the 2nd day of July, 2003, to:

Mr. Donald A. Negaard
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702

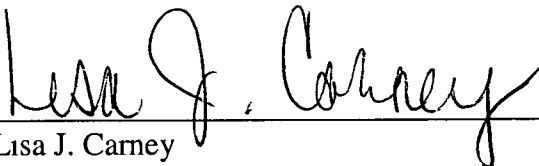
Mr. Thomas Moorman
Kraskin, Lesse & Cosson, LLP
2120 L Street - Suite 520
Washington, DC 20037

Mr. Daniel S. Kuntz
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695

and that a true and correct copy of the above document was mailed, inside mail, at the State
Capitol, on the 2nd day of July, 2003, to:

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 E. Boulevard Avenue - Dept. 408
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge



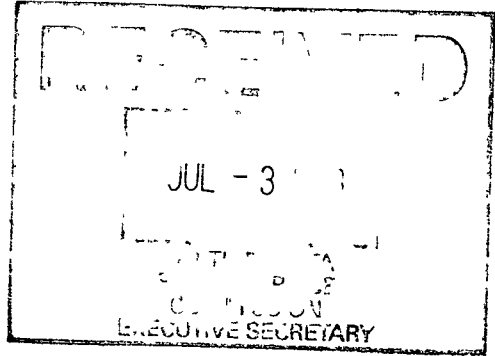
Lisa J. Carney

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
 BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Griggs)
 County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc., West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc,)
)
 Complainants,)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)

CERTIFICATE OF SERVICE



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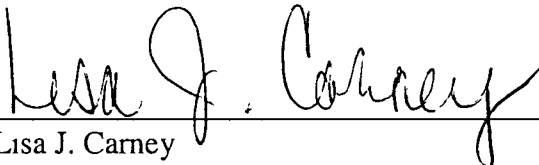
Mr. Thomas Moorman
 Kraskin, Lesse & Cosson, LLP
 2120 L Street - Suite 520
 Washington, DC 20037

Mr. Daniel S. Kuntz
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695

and that a true and correct copy of the above document was mailed, inside mail, at the State
Capitol, on the 2nd day of July, 2003, to:

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 E. Boulevard Avenue - Dept 408
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Allen C. Hoberg, Administrative Law Judge



Lisa J. Carney



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

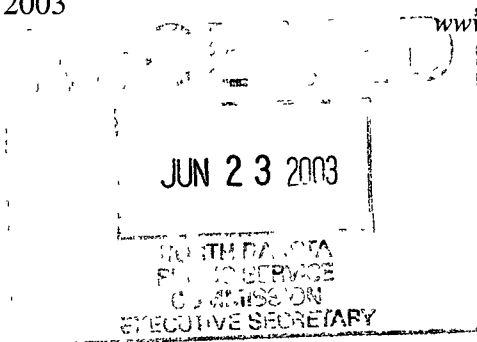
Allen C Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254

June 20, 2003

oah@state.nd.us
www.state.nd.us/oah

Mr. William W. Binek
Hearing Administrator
Public Service Commission
600 E. Boulevard Avenue - Dept. 408
Bismarck, ND 58505



Dear Mr. Binek:

Thank you for your June 19, 2003, request of the designation of an administrative law judge from the Office of Administrative Hearings to conduct a hearing in the matter of ITC Group/DCN/Illuminet (PU-2829-03-93). I hereby designate myself to be assigned as a administrative law judge to conduct the hearing in regard to this matter. Because the administrative law judge will not be making recommended findings of fact and conclusions of law, or issuing a recommended order, the person or persons who will actually be making the final administrative decision in regard to this matter (i.e., commission) must actually be in attendance at the hearing.

Please send all additional relevant documents in regard to this matter (correspondence, and other pleadings and documents) to the designated administrative law judge in care of the Office of Administrative Hearings, 1707 North 9th Street, Bismarck, North Dakota 58501-1882.

Sincerely,

Allen C. Hoberg
Director

ACH:ljc

c: Mr. Donald A. Negaard
Mr. Daniel S. Kuntz



Public Service Commission
State of North Dakota

COMMISSIONERS

Tony Clark, President
Leo M Reinbold
Susan E Wefald

Executive Secretary
Jon H Mielke

600 E Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
web www.psc.state.nd.us
e-mail sab@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

June 19, 2003

Mr. Allen C Hoberg
Office of Administrative Hearings
1707 North 9th Street, Lower Level
Bismarck, ND 58501

Re Case No. PU-2829-03-83
ITC Group/DCN/Illuminet
vs Qwest Corporation
Complaint

Dear Mr. Hoberg:

Enclosed is a request for a procedural administrative law judge in the above case. A copy of the case is enclosed. Note that the Commission has requested a procedural administrative law judge; however they may decide that the administrative law judge serve as a substantive ALJ.

Please provide the Commission with a copy of any filings issued by your office in this matter.

If you have any questions, please contact me. Thank you.

Sincerely,

William W. Binék
Hearing Administrator

/sls
Enclosure

c: Don Negaard, Attorney (Letter only)
Thomas Moorman, Attorney (Letter only)
Daniel S. Kuntz Attorney (Letter only)

16 PU-2829-03-83

Pages 1

Cover letter re request for ALJ

by Public Service Commission

06/19/2003

CC Comm Legal Fiona Pat Mike



REQUEST FOR ADMINISTRATIVE LAW JUDGE--COMPLAINT
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17818 (Rev 03-2001)

Name of Agency, Board, or Commission Public Service Commission, 600 E Blvd Ave., Dept. 408, Bismarck, ND 58505-0480		
Name of Respondent(s) ITC Group/DCN/Illuminet	Address % Pringle & Hergstad, PC, P O Box 1000, Minot, ND 58702	Telephone Number 701-852-0381
Qwest Corporation	% Zuger Kirmis & Smith, P O Box 1695, Bismarck, ND 58502-1695	701-223-2711

The above named agency, board, or commission has taken administrative action pursuant to its authority found in Title 49 _____ (North Dakota Century Code and/or North Dakota Administrative Code).

The administrative action is more fully described as follows
 ITC Group/DCN/Illuminet vs Qwest Corporation Complaint, Case No PU-2829-03-83. ITC Group/DCN/Illuminet filed a Formal Complaint for Injunctive Relief and Reparations against Qwest Corporation

Has the respondent been provided a copy of the complaint? Yes No

Attached is a copy of the complaint, related documents and correspondence, and certificate, affidavit or admission of service. If the respondent has otherwise been notified about this administrative action, please explain in the comments section below

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a **procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 54-57-04(6).**
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Agency Contact Person(s) William W Binek, Chief Counsel, Public Service Commission	Telephone Number 328-4088
---	------------------------------

Representation [attorney (or other)] if known:

Agency PSC - William Binek, Chief Counsel	Telephone Number 328-4088
Party ITC Group/DCN/Illuminet - Don Negaard, Atty (701-852-0381) & Thomas Moorman Atty (202-296-8890)	Telephone Number
Party Qwest Corporation - Dan Kuntz, Attorney	Telephone Number 701-223-2711

Additional Comments
 The Commission requests the administrative law judge serve as a procedural law judge, however the Commission may in the future request that the administrative law judge serve as the substantive administrative law judge

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing If notice has already been issued, attach a copy of the notice)

Typed or Printed Name and Title of Requesting Person William W Binek, Hearing Administrator	Date 6-19-03
Signature of Requesting Person 	Telephone Number 328-4088

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

Lyle W Kirmis
Lance D Schreiner, P C
James S Hill, P C **^
Patrick J Ward*++^
Rebecca S Thiem, P C **
Daniel S Kuntz, P C
Jerry W Evenson, P C ^
Lawrence A Dopson
Lawrence E King, P C **
Tracy Vigness Kolb, P C
Shawnda R Reid***
Constance N Hofland**
Paul R Sanderson

316 North Fifth Street
Provident Building
P O Box 1695
Bismarck, ND 58502-1695
(701) 223-2711
fax (701) 223-7387
zkslaw@zkslaw.com
www zkslaw.com

Of Counsel
John A Zuger

Thomas O Smith
1944-2001

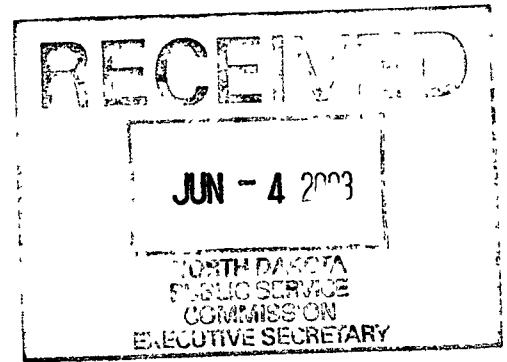
Also licensed in
Illinois *
Minnesota**
Missouri+
Montana++
South Dakota^^

^Certified Civil Trial Specialist
National Board of Trial Advocacy

June 3, 2003

Mr Jon H. Mielke, Executive Secretary
North Dakota Public Service Commission
State Capitol-12th Floor
Bismarck, ND 58505-0480

Re Bek Communications Cooperative, et al v. Qwest
Communications
Case No.: NDPSC PU-2829-03-83



Dear Mr Mielke:

The following is in response to the letter dated May 28, 2003 from Mr Negaard regarding appointment of a hearing officer and adoption of a procedural order in this proceeding.

Qwest Corporation joins in the request of the complainants for appointment of a hearing officer. Due to the nature and complexities of this proceeding, Qwest Corporation believes appointment of a hearing officer is appropriate at this time to address procedural matters that may arise prior to the hearing and to provide possible recommendations on dispositive motions filed prior to hearing

Qwest Corporation believes the hearing officer should be given responsibility for development of a procedural order including selection of a hearing date consistent with the availability of the parties and the Commission. Qwest believes the scheduling order should be issued after the hearing officer has the opportunity to confer with the parties and representatives of the Commission. Qwest has no objection to the complainants' request to allow participation in a procedural scheduling conference by telephone.

Qwest objects to the proposed scheduling order presented by the complainants on the following grounds:

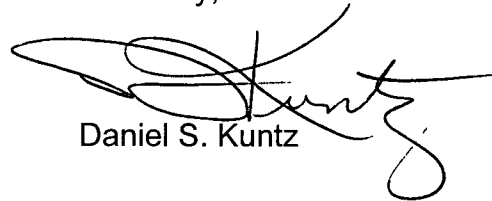
1. The complainants' proposed scheduling order provides a discovery cutoff 30 days prior to filing by the complainants of initial testimony in this matter, which they propose for August 15, 2003. Therefore, the proposed scheduling order anticipates a discovery cutoff of July 15, 2003. Considering parties have 30 days to respond to written discovery requests and reasonable notice must be provided for all other types of discovery, a discovery cutoff of July 15, 2003 is unreasonable. Qwest anticipates that it will serve written interrogatories as well as requests for production of documents on the complainants. Qwest believes there are thousands of pages of documents that are relevant or potentially relevant to the issues in this proceeding. Following analysis of its own documents as well as those provided by the complainants, Qwest intends to conduct depositions of the complainants' representatives and possibly third parties to determine the factual basis for the complainants' allegations. Even if discovery proceeds without any difficulties, Qwest anticipates that a minimum of 120 days will be necessary to conduct discovery. It is better to set a reasonable length of time for the parties to conduct discovery in an initial scheduling order rather than set a scheduling order, based upon unreasonable parameters, that subsequently requires amendment. Qwest also requests the opportunity to conduct discovery after the filing of testimony by the parties.
2. Qwest requests at least 50 days for the filing of its testimony after the time set for the filing of the complainants' testimony. This will allow Qwest adequate time to investigate the basis for the allegations and assertions contained in complainants' testimony, conduct any necessary discovery regarding the testimony, and obtain witnesses and testimony responsive to the complainants' testimony.
3. Based upon the above considerations, the complainants' proposed hearing date of October 15-16, 2003 is unrealistic.

Although the issues stated in the complainants' complaint have been addressed or are pending before other jurisdictions, the issues in those jurisdictions were not addressed to the degree that Qwest intends to respond in North Dakota. It is also noteworthy that in a similar procedural conference in New Mexico on May 29, 2003, Illuminet agreed to a hearing date on December 2, 2003, and that is based on New Mexico's standard time for responding to discovery of 15 days, instead of the 30 we utilize here in North Dakota. Qwest intends to vigorously defend against the allegations of the complainants

6/3/03
Page 3

and provide a complete factual and legal record for the Commission's determination. Accordingly, Qwest respectfully requests the Commission to appoint a hearing officer and allow the hearing officer to issue an appropriate procedural order after an opportunity to confer with the parties and representatives of the Commission. Qwest expects that it will request that the hearing officer set a hearing in early 2004.

Sincerely,



Daniel S. Kuntz

DSK.ar

cc: Charles W. Steese
Stephanie Boyett-Colgan
Don Negaard
Thomas J. Moorman



LAW OFFICES OF

PRINGLE & HERIGSTAD, P.C.

BREMER BANK BUILDING
20 SW 1ST STREET
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702
(701) 852-0381
FAX (701) 857-1361
E-mail pringle@srt.com

OF COUNSEL

HERBERT L MESHKE

RETIRED

ROGER O HERIGSTAD

THOMAS A WENTZ

MARK F PURDY

JAN M SEBBY

DONALD A NEGAARD
JAMES E NOSTDAHL
CAROL K LARSON
DAVID J HOGUE
REED A SODERSTROM
MARK R HAYS
BRENT M OLSON
DENISE C HAYS
DEBRA L HOFFARTH
SCOTT M KNUDSVIG



May 28, 2003

Jon H. Mielke, Executive Secretary
Public Service Commission
State Capitol
Bismarck, ND 58505-0480

BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS

On behalf of the Complainants in the above-captioned proceeding, attached for approval by the North Dakota Public Service Commission (the "Commission") is a proposed procedural schedule to resolve the matters raised in the underlying Complaint instituting this proceeding. Although Complainants have had discussions with Qwest Corporation ("Qwest") in an effort to reach an agreed-upon schedule, it appears that Commission involvement to resolve areas of dispute is now required.

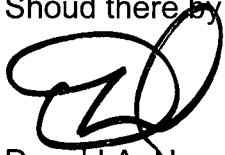
As reflected in the attached proposed schedule, Complainants submit that any procedural schedule should result in the efficient use of resources and orderly presentation of this matter. This is particularly true in light of the fact that the primary issues in this case have already been decided in proceedings in other states. Thus, Complainants submit that this matter can and should move toward hearing as rapidly as possible.

Further, and to avoid any unnecessary use of Commission resources, Complainants request that the Commission appoint a Hearing Officer to resolve any procedural issues that may arise prior to the hearing on the merits before the Commission. In this way, the Commission need not expend its time and resources on potential pre-hearing procedural issues but, rather, could conserve its resources to resolving the issues raised in the Complaint.

In the event that there is a need for a pre-hearing conference to resolve scheduling issues, Complainants request that the Commission permit participation via telephone. This will accommodate the out-of-state counsel representing the various parties in this proceeding.

Accordingly, for the reasons stated Complainants request that the Commission approve the attached procedural schedule in this proceeding and designate a Hearing Officer to resolve any pre-hearing issues that may arise.

Should there be any questions, please feel free to contact the undersigned.



Donald A. Negaard

lh

cc/enc

Jerome Tishmack, Manager - BEK Communications Cooperative
Paul Schuetzler, Manager - Consolidated Telcom
Keith Larson, Manager - Dakota Central Telecommunications Cooperative and
Dakota Central Telecom I, Inc
Darren Moser, Manager, Dickey Rural Telephone Cooperative
Ray Brown, Manager, Griggs County Telephone and Moore & Liberty Telephone
Keith Andersen, Manager - Inter-Community Telephone Company, LLC
Mark Wilhelm, Manager - Midstate Telephone Company and Midstate Communications, Inc
Dave Dircks, Manager - North Dakota Telephone Company
Kenneth Lund, Manager - Northwest Communications Cooperative
David L Dunning, Manager - Polar Communications Mutual Aid Corporation
and Polar Telecommunications, Inc
Royce S Aslakson, Manager - Reservation Telephone Cooperative
Steve Lysne, Manager - SRT Communications, Inc
Kenneth Carlson, Manager - United Telephone Mutual Aid Corporation
and Turtle Mountain Communications, Inc
Albert R Grosz, Manager - West River Telecommunications Cooperative
Evan Hass, DCN
David Crothers, NDATC
Thomas Moorman, Kraskin, Lesse & Cosson, LLP
Daniel S Kuntz, Zuger Kirmis & Smith
Charles W Steese & Sandra L Potter, Steese & Evans, P C
Stephanie Boyett-Colgan, Qwest Services Corporation

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative,)
Dickey Rural Telephone Cooperative,)
Griggs County Telephone Company,)
Inter-Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Company, North Dakota)
Telephone Company, Northwest)
Communications Cooperative, Polar)
Communications Mutual Aid Corporation,)
Reservation Telephone Cooperative, SRT)
Communications, Inc , United Telephone)
Mutual Aid Corporation, Turtle Mountain)
Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc ,)
Complainants,)
vs.)
Qwest Communications,)
Respondent.)

Case No. PU-2829-03-83

Proposed Scheduling Order

1. Discovery:

Both parties may begin discovery immediately upon the signing of this order.

Discovery shall be conducted in accordance with the North Dakota

Administrative Agencies Practices Act- Ch. N D.C.C. 28-32 except that motions

to compel discovery shall be governed by paragraph 2 below.

A. Discovery cut-off shall be 30-days prior to the filing by Complainants of

their initial testimony in this matter. However, if a party can demonstrate a

need for additional discovery in response to a dispositive motion as provided for in paragraph 3, below, that party can apply for an order to engage in limited discovery that relates only to the dispositive motion and the resolution of such motion (including the receipt of responses to any such discovery and/or the resolution of motions to compel such discovery). The completion of the discovery issue would then trigger the response time for the remaining briefs related to the dispositive motion.

2. Motions to Compel:

- A. To the extent a Motion to Compel is necessary to discover information that a party believes to be relevant information, the party may submit a written motion to compel to the hearing officer.
- B. Responses to Motions to Compel shall be due within five (5) business days of service of the Motion without additional days for mail service.
- C. If desired, parties may have three (3) business days from service of the Response to file a Reply brief without additional days for mail service.
- D. All Motions to Compel and related pleadings must be served electronically or via fax as well as by U.S. Mail to all counsel of record.

3. Dispositive Motions. Dispositive motions shall be filed no later than August 25, 2003. Briefs in response to a dispositive motion shall be filed within 20 days after filing of the dispositive motion and reply briefs may be filed 10 days thereafter.

4. Pre-filed testimony:

- A. Complainants shall file their pre-filed testimony August 15, 2003.

- B. Qwest shall submit its pre-filed responsive testimony on or before September 15, 2003.
- C. Complainants shall submit pre-filed rebuttal testimony on or before October 1, 2003.
- D. All testimonies must be served electronically or via fax as well as by U.S. Mail on the same time they are filed to all counsel of record.

5. Hearing October 15-16, 2003.

6. Post-Hearing Briefs

- A. Simultaneous post-hearing briefs and/or proposed orders shall be filed 30 calendar days after the transcript is available.
- B. Simultaneous post-hearing reply briefs shall be filed 14 calendar days after filing of the initial hearing briefs and/or proposed orders.
- C. All post-hearing briefs and/or proposed orders must be served electronically or via fax as well as by U.S. Mail at the same time they are filed to all counsel of record.

ZUGER KIRMIS & SMITH

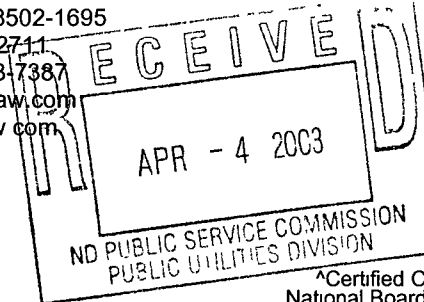
COUNSELORS AND ATTORNEYS AT LAW

Lyle W Kirmis
Lance D Schreiner, P C
James S Hill, P C **^
Patrick J Ward***^
Rebecca S Thiem, P C **
Daniel S Kuntz, P C
Jerry W Evenson, P C ^
Lawrence A Dopson
Lawrence E King, P C.**
Tracy Vigness Kolb, P C
Shawnda R Reid***
Constance N Hofland**
Paul R Sanderson

316 North Fifth Street
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www zkslaw com

Of Counsel
John A Zuger

Thomas O Smith
1944-2001



Also licensed in
Illinois *
Minnesota**
Missouri+
Montana++
South Dakota^^

^Certified Civil Trial Specialist
National Board of Trial Advocacy

April 4, 2003

Mr. Jon Mielke
Executive Secretary
ND Public Service Commission
600 East Boulevard Avenue -- 12th Floor
Bismarck, ND 58505-0480

Re: Bek Communications Cooperative, et al v. Qwest Communications
Case No.: PU-2829-03-83

Dear Mr Mielke:

Enclosed for filing are the original and seven copies of Qwest Corporation's Answer to the Complaint for injunctive relief and reparations in this proceeding. Copies of the Answer have been served by certified mail upon the complainants' attorneys Don Negaard and Thomas J. Moorman.

Please contact me if you have any questions regarding this filing.

Sincerely,

Daniel S. Kuntz

Enc.

cc: Don Negaard
Thomas J. Moorman
Charles W. Steese
Stephanie Boyett-Colgan
Scott McIntosh

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs)
County Telephone Company, Inter-)
Community Telephone Company, LLC,)
Midstate Telephone Company, Midstate)
Communications, Inc., Moore & Liberty)
Telephone Co., North Dakota Telephone)
Company, Northwest Communications)
Cooperative, Polar Communications)
Mutual Aid Corporation, Reservation)
Telephone Cooperative, SRT)
Communications, Inc., West River)
Telecommunications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, LLC, and Illuminet, Inc)
)
Complainants,)
)
vs)
)
Qwest Communications,)
)
Respondent.)

Case No PU-2829-03-83

QWEST CORPORATION’S ANSWER

- A. Pursuant to N.D.C.C. 28-32-21 and N.D. Admin. Code 69-02-02-03, Qwest Corporation¹ (“Qwest”) hereby answers the Complainants’ Formal Complaint for Injunctive Relief and Reparations (“Complaint”).

- B. The name and address of the answering party is:

Qwest Corporation
1801 California Street, 47th Floor
Denver, Colorado 80202

¹ Complainants named Qwest Communications, but the proper respondent is Qwest Corporation.

and in North Dakota:
220 North 5th Street
Bismarck, North Dakota 58501

C All correspondence and other papers in this matter should be directed to Qwest's
counsel

Daniel S. Kuntz
Zuger Kirmis & Smith
P O Box 1695
Bismarck, ND 58502-1695
701-223-2711
701-223-9619 (fax)
dkuntz@zkslaw.com

And:

Charles W. Steese
Sandra L Potter
STEESE & EVANS, P.C.
6400 South Fiddlers Green Circle, Suite 1820
Denver, Colorado 80111
720-200-0677
720-200-0679 (fax)
csteese@s-elaw.com
spotter@s-elaw.com

And:

Stephanie Boyett-Colgan
Qwest Services Corporation
1801 California, Suite 4700
Denver CO 80202
303-896-0784
303-896-8120 (fax)
scolgan@qwest.com

ANSWER TO COMPLAINT

Qwest denies each and every allegation contained in the Complaint not specifically admitted herein.

1. Regarding Paragraph 1 of the Complaint (hereafter, the Paragraphs of the Complaint are referred to by Paragraph number), Qwest denies that the issues raised by the Complaint necessarily warrant the commitment of North Dakota Public Service Commission (“PSC” or “Commission”) resources for a hearing to resolve factual issues; dismissal of the case on motion may be appropriate and dispositive of the entirety of the case. To the extent that the PSC determines a hearing is necessary, Qwest responds that the factual record in this case is complex and will require the completion of extensive discovery before hearing. Qwest objects therefore to the Commission hearing this matter “at the earliest possible date” as Complainants request. In addition to the briefing that Complainants request, Qwest requests that the Commission allow pre-filed testimony from both fact and expert witnesses, including surrebuttal. Qwest also submits that opening statements and pre-hearing briefs would be appropriate given the complexity of the case.

2. Qwest denies all allegations contained in Paragraph 2, except it admits that its existing Signaling System No. 7 (“SS7”) tariff has been effective since July 31, 2001.

3. Qwest has no information or belief sufficient to enable it to answer the allegations contained in the first two sentences and last sentence of Paragraph 3, and on that basis, denies. Qwest admits that the “ITC companies” are independent local exchange companies (“ILECs”) in North Dakota.

4. Qwest has no information or belief sufficient to enable it to answer the allegations contained in Paragraph 4, and on that basis, denies.

5. Paragraph 5 does not require a response.

6. Qwest admits that Illuminet is a third-party, competitive provider of SS7, and has no information or belief sufficient to enable it to answer the remaining allegations contained in Paragraph 6, and on that basis, denies.

7. Paragraph 7 does not require a response.

8. Qwest admits it is a Delaware corporation, authorized by the Commission to provide, *inter alia*, local exchange service in North Dakota. Qwest has stated its North Dakota business address *supra*.

9. Qwest has not had sufficient time to complete its investigation into the network specific details set forth in Paragraph 9, and on that basis, denies.

10. Qwest denies the first sentence of paragraph 10 insofar as it suggests that each carrier has signaling capability. Qwest has no information or belief sufficient to enable it to answer the allegations that the ITC has deployed signaling capability, and on that basis, denies. Qwest admits the remainder of the paragraph.

11. Qwest has no information or belief sufficient to enable it to answer the allegations contained in the first seven sentences of Paragraph 11, and on that basis, denies. The eighth through tenth sentences of Paragraph 11 incorporate a legal conclusion regarding agency, and to the extent that a response is required to that conclusion, Qwest denies that Illuminet or DCN were agents of the ILECS, that the parties conducted operations consistent with an agency relationship, and that the "Letter of Agency" document reflects such an agency. Qwest has no information or belief

sufficient to enable it to answer the remaining allegations contained in Paragraph 11, and on that basis, denies.

12. Qwest has not had sufficient time to complete its investigation into the network specific details set forth in Paragraph 12, and on that basis, denies.

13. There are many ways a call can complete on a network. The allegation, as stated suggests that all calls route in a certain manner, and on that basis, Qwest denies the allegations in Paragraph 13.

14. Qwest admits that effective July 31, 2001, it amended its North Dakota Access Service Price Schedule (“tariff”) to introduce charges for use of its SS7 network and to reduce other charges. This amendment conformed the North Dakota rate structure for SS7 to the federal rate structure. Qwest admits that the FCC reviewed Qwest’s petition to amend its FCC interstate access tariff to introduce charges for SS7 and reduce other rates, and that the FCC approved such petition. The remainder of Paragraph 14 does not contain factual allegations, but rather states legal conclusions that do not require a response. To the extent that the Commission construes the remainder of Paragraph 14 as requiring a response, Qwest denies.

15. Qwest admits the first sentence of paragraph 15. The remainder of Paragraph 15 does not contain factual allegations, but rather states legal conclusions that do not require a response. To the extent that the Commission construes the remainder of Paragraph 14 as requiring a response, Qwest denies.

16. Qwest admits that it filed similar tariff amendments in several of the states within its region. Qwest admits that Illuminet opposed the tariff amendments in some of those states; however, Illuminet did not oppose the amendments in several of the states

including North Dakota. Qwest admits that it withdrew the similar tariff amendments from the states of Arizona, Minnesota, Utah and Washington, and admits that the Minnesota Department of Commerce had issued data requests to Qwest. Except with respect to the facts admitted here, Qwest denies the allegations contained in Paragraph 16.

17. Qwest admits that Illuminet has filed complaints regarding SS7 in Idaho, and that post-hearing briefs in that proceeding were filed in February 2003. Except with respect to the facts admitted here, Qwest denies the allegations contained in Paragraph 17.

18. Qwest admits the allegations contained in the first sentence of Paragraph 18. Qwest also admits that the Nebraska Public Service Commission entered a decision, and that Qwest sought reconsideration of that decision. The written decision and motion speak for themselves. Qwest is presently appealing the Nebraska PSC's decision. Except with respect to the facts admitted here, Qwest denies the allegations contained in Paragraph 18.

19. Qwest denies the allegations contained in Paragraph 19.

20. Qwest denies the allegations contained in Paragraph 20.

21. Qwest denies the allegations contained in Paragraph 21.

22. The allegations in Paragraph 22 contain generalities that do not apply in many circumstances, and on that basis denies the entirety of the allegations contained in Paragraph 22.

23. The third and fourth sentences of Paragraph 23 contain legal conclusions that do not require a response, and to the extent that the Commission believes they

require a response, Qwest denies. Qwest denies the remaining allegations contained in Paragraph 23.

24 Qwest denies the allegations contained in Paragraph 24.

RESPONSE TO FIRST CAUSE OF ACTION

“Violation of Qwest’s EAS Agreement and Arrangements with ITC’s”

25. In response to Paragraph 25, Qwest incorporates by reference its responses to each and every preceding paragraph.

26 Qwest denies the allegations contained in Paragraph 26, Paragraph 26(a), and Paragraph 26(b). Qwest affirmatively states as a defense that Illuminet purchases SS7 from Qwest’s tariff. Terms that may or would apply as between Qwest and ILECs do not apply to purchases by Illuminet through the tariff. Qwest has properly applied the tariff as to the parties who actually purchase SS7 from Qwest.

RESPONSE TO SECOND CAUSE OF ACTION

“Violation of Qwest’s Tariffs”

27. In response to Paragraph 27, Qwest incorporates by reference its responses to each and every preceding paragraph.

28 Qwest denies the allegations contained in Paragraph 28. Qwest affirmatively states as a defense that Illuminet purchases SS7 from Qwest’s tariff. Terms that may or would apply as between Qwest and ILECs do not apply to purchases by Illuminet through the tariff. Qwest has properly applied the tariff as to the parties who actually purchase SS7 from Qwest.

29. Qwest denies the allegations contained in Paragraph 29. Qwest affirmatively states that it has properly applied its tariff.

RESPONSE TO THIRD CAUSE OF ACTION

“Violation of State Law and Policy”

30. In response to Paragraph 30, Qwest incorporates by reference its responses to each and every preceding paragraph.

31 Qwest denies the allegations contained in Paragraph 31. Qwest affirmatively states that ILECs may contract with Qwest directly for SS7 under infrastructure sharing agreements, that Illuminet may purchase SS7 from Qwest under the terms provided in Qwest's tariff, and that these arrangements are legal and lawful.

32. Qwest denies the allegations contained in Paragraph 32. Qwest affirmatively states that federal law contemplates local exchange carriers charging different rates for SS7 through a tariff to noncarriers such as Illuminet than the rates charged to carriers under interconnection or infrastructure sharing agreements

33. Qwest admits that Illuminet has failed to pay Qwest's SS7 charges in North Dakota for a period of time. Qwest has no information or belief sufficient to enable it to answer whether the ILECs have suspended payment to Illuminet or DCN, and on that basis, denies the remaining allegations contained in Paragraph 33.

RESPONSE TO PRAYER FOR RELIEF

1 Qwest opposes the relief sought in Paragraph 1 of the Prayer for Relief. Qwest affirmatively states the filed rate doctrine prevents the Commission from issuing a cease and desist order retroactively effective to the date the tariff amendment went into effect, and that such an order would constitute impermissible retroactive ratemaking. Telecommunications companies are exempt from Commission jurisdiction under N.D.C.C. 49-02-02 and therefore injunctive relief under that statute is unavailable.

2 Qwest opposes the relief sought in Paragraph 2 of the Prayer for Relief. Qwest affirmatively states that the Complaint does not warrant opening a proceeding to

review the SS7 charges, and that the filed rate doctrine prevents the Commission from ordering a refund or credit if it finds that the SS7 charges were not reasonable, and that such an order would constitute impermissible retroactive ratemaking. Telecommunications companies are exempt from Commission jurisdiction under N.D.C.C. 49-02-02 and therefore injunctive relief under that statute is unavailable.

3. Qwest opposes the relief sought in Paragraph 3 of the Prayer for Relief. Qwest affirmatively states that the contractual arrangements that would apply if the ILECs contracted with Qwest for SS7 are irrelevant to a third party noncarrier's (Illuminet's) purchase of SS7 through a filed tariff.

4. Qwest opposes the relief sought in Paragraph 4 of the Prayer for Relief. Qwest affirmatively states that the filed rate doctrine prevents the Commission from ordering reimbursement or reparations, and that such an order would constitute impermissible retroactive ratemaking.

5. Qwest opposes the relief sought in Paragraph 5 of the Prayer for Relief. Qwest affirmatively states that the contractual arrangements that would apply if the ILECS contracted with Qwest for SS7 are irrelevant to a third party noncarrier's (Illuminet's) purchase of SS7 through a filed tariff.

6. Qwest opposes the relief sought in Paragraph 6 of the Prayer for Relief.

7. Qwest opposes the relief sought in Paragraph 7 of the Prayer for Relief.

8. Qwest opposes the relief sought in Paragraph 8 of the Prayer for Relief.

9. Qwest opposes the relief sought in Paragraph 9 of the Prayer for Relief.

STATEMENT OF NEW MATTERS CONSTITUTING DEFENSES

1. Illuminet is not a carrier within the meaning of federal telecommunications law; Qwest is not required to enter into an interconnection agreement with Illuminet or to charge Illuminet the same rates set forth in an interconnection agreement.

2. The ILECs, other than North Dakota Telephone Co., do not purchase SS7 from Qwest. Therefore, the ILECs lack standing to bring this claim. Moreover, there is no privity of contract with the ILECs that govern the charges in issue.

3. Illuminet is not an agent of DCN or the ILECs. Even if Illuminet acts as an agent for DCN who in turn is an agent for the ILECs, Illuminet still is purchasing SS7 from Qwest's filed tariff and cannot retroactively avoid the terms of that tariff by pointing to its customers' former agreements with Qwest for different terms.

4. The doctrines of waiver, estoppel and laches bar the relief sought by complainants.

5. The North Dakota Century Code bars the retroactive reimbursement sought by complainants.

6. The filed rate doctrine bars the recovery sought by complainants.

7. The rule against retroactive rate making bars the recovery sought by complainants.

8. Basic contractual principles, including the doctrine of third party beneficiaries, bars the recovery sought by complainants.

9. The Commission is without jurisdiction to award much of the recovery sought by complainants.

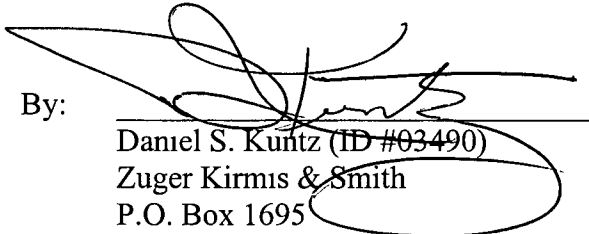
10. The Complainants failed to exhaust administrative remedies.
11. The Complaint fails to state a claim under which relief can be granted.

WHEREFORE, Qwest respectfully requests that the Commission enter its order as follows:

1. Dismissing the Complaint, and denying Complainants any relief thereunder;
2. Advising the Complainants that they have no legitimate grounds to dispute Qwest's billed charges for the SS7 services and that Qwest may terminate services to Illuminet unless all such billed amounts are paid in full; and
3. For such other relief as the Commission finds just and appropriate.

RESPECTFULLY SUBMITTED this 4th day of April 2003.

By:



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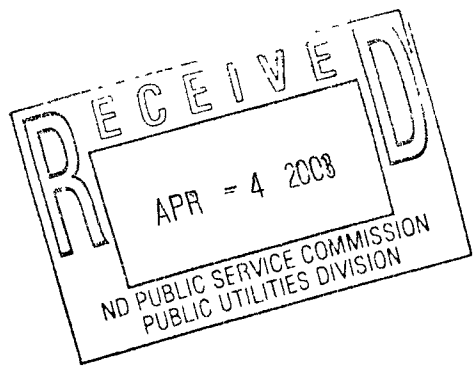
Stephanie Boyett-Colgan
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Attorneys for Qwest Corporation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company, Inter-Community)
 Telephone Company, LLC, Midstate)
 Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative,)
 SRT Communications, Inc., Turtle Mountain)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, LLC, and Illuminet, Inc ,)
)
 Complainants,)
)
 -vs-)
)
 Qwest Communications,)
)
 Respondent.)

CASE NO. PU-2829-03-83



AFFIDAVIT OF MAILING

STATE OF NORTH DAKOTA)
) ss.
 COUNTY OF BURLEIGH)

The undersigned, being duly sworn, deposes and says that: I am a United States citizen, over 18 years of age, and on April 4, 2003, I served a copy of the attached:

QWEST CORPORATION'S ANSWER

by placing a true copy in a postage paid envelope or envelopes addressed to each person named below, at the address stated below, which is the last known address of the addressee, and by depositing said envelope in the United States mail at Bismarck,

North Dakota.
Don Negaard
Attorney at Law
Pringle & Herigstad
P.O. Box 1000
Minot, ND 58702-1000

Thomas J. Moorman
Attorney at Law
Kraskin, Lesse & Cosson, LLC
2120 L Street, Suite 520
Washington, DC 20037

Wm C. Reich

Subscribed and sworn to before me, today, April 4, 2003

NOTARY PUBLIC
State of North Dakota
My commission expires:

9-5-04
Valerie Leopoldt



ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

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Lance D Schreiner, P C
James S Hill, P C **^
Patrick J Ward*++^
Rebecca S Thiem, P C **
Daniel S Kuntz, P C
Jerry W Evenson, P C ^
Lawrence A Dopson
Lawrence E King, P C **
Tracy Vigness Kolb, P C
Shawnda R Reid***
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Of Counsel
John A Zuger

Thomas O Smith
1944-2001

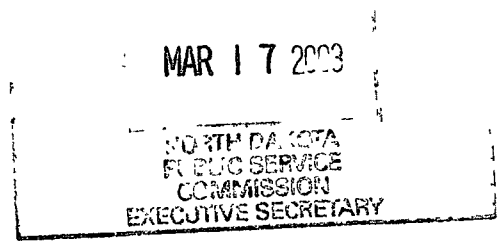
Also licensed in
Illinois *
Minnesota **
Missouri+
Montana ++
South Dakota^^

^Certified Civil Trial Specialist
National Board of Trial Advocacy

March 14, 2003

Don Negaard
Attorney at Law
P O Box 1000
Minot, ND 58702-1000

**Re: ITC Group, et al. v. Qwest Communications
NDPSC Case No. PU-2829-03-83**



Dear Don

This will confirm that the complainants have agreed to extend the time for Qwest to respond to the above referenced complaint before the North Dakota Public Service Commission to April 4, 2003. Thank you for your cooperation

Sincerely,

Daniel S Kuntz

c North Dakota Public Service Commission
Jon Mielke, Executive Secretary
Chuck Steese
Scott Macintosh
Tim Goodwin

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint

Case No. PU-2829-03-83

AFFIDAVIT OF SERVICE BY CERTIFIED AND ORDINARY MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **28th day of February, 2003**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Complaint

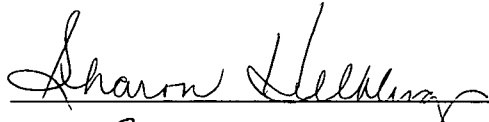
The envelope was addressed as follows:


Scott Macintosh
Qwest Corporation
P O Box 5508
Bismarck ND 58502-5508
Cert. No. 7001 1940 0005 3425 8506

Each address shown is the respective addressee's last reasonably ascertainable post office address

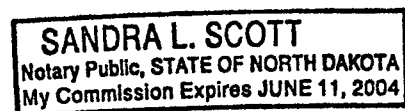
Subscribed and sworn to before me
this **28th day of February, 2003**

SEAL





Notary Public



MOTION

February 27, 2002

APPROVED

DATE: 2-27-03
KME

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

I move the Commission find that the complaint states a *prima facie* case, and
serve the complaint on Qwest Corporation.

sdh

MOTION

February 27, 2002

**ITC Group/DCN/Illuminet vs.
Qwest Corporation
Complaint**

Case No. PU-2829-03-83

I move the Commission admit attorney Thomas J. Moorman to practice before the Commission in ITC Group/DCN/Illuminet vs. Qwest Corporation Complaint, Case No. PU-2829-03-83

wwb/sls



LAW OFFICES OF

PRINGLE & HERIGSTAD, P.C.

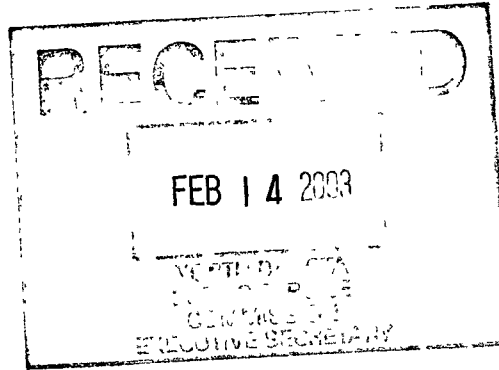
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(701) 852-0381
FAX (701) 857-1361
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DONALD A. NEGAARD
JAMES E. NOSTDAHL
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DAVID J. HOGUE
REED A. SODERSTROM
MARK R. HAYS
BRENT M. OLSON
DENISE C. HAYS
DEBRA L. HOFFARTH
SCOTT M. KNUDSVIG

February 13, 2003



Jon H. Mielke, Executive Secretary
PUBLIC SERVICE COMMISSION
State Capitol
Bismarck, ND 58505-0480

**FORMAL COMPLAINT FOR INJUNCTIVE RELIEF AND REPARATIONS
BEK COMMUNICATIONS COOPERATIVE, ET AL V. QWEST COMMUNICATIONS**

Enclosed for filing are an original and eight copies of a Motion for Admission to Practice along with a supporting Affidavit of Thomas Moorman and proposed Order.

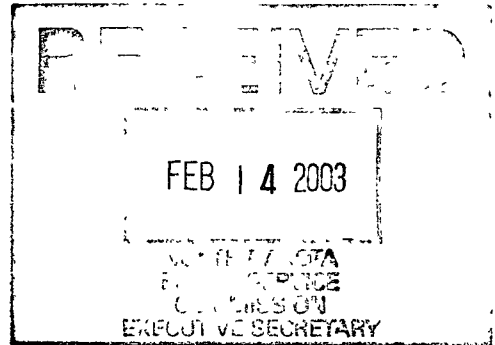
Don Negaard

jt

Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
 Dickey Rural Telephone Cooperative,)
 Griggs County Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Telecommunications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc., United Telephone)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc , West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs.)
)
 Qwest Communications,)
)
 Respondent.)



Case No

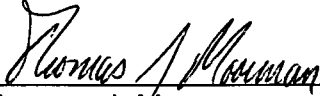
MOTION FOR ADMISSION TO PRACTICE

The undersigned attorney of record in the above-entitled matter moves the North Dakota Public Service Commission (PSC), pursuant to Rule 11.1 of the North Dakota Rules of Court, and based on the attached Affidavit of Thomas J. Moorman, a nonresident attorney of good standing in the District of Columbia, for permission to appear before the PSC on behalf of the Complainant, Illuminet, Inc., and to practice before the PSC in the above-pending matter. Thomas Moorman designates as his associate Attorney Don Negaard (ID number 03598)

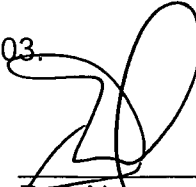
Pursuant to Rule 11 1 of the North Dakota Rules of Court, Thomas Moorman's

Affidavit is attached hereto in support of this Motion for Admission to Practice.

Dated this 13th day of February, 2003.



Thomas J. Moorman
KRASKIN, LESSE & COSSON, LLC
Attorneys for Complainant, Illuminet, Inc
2120 L Street, N.W , Suite 520
Washington, D C. 20037
Telephone (202) 296-8890
Fax (202) 296-8893



Don Negaard, State Bar ID #03598
PRINGLE & HERIGSTAD, P.C.
Attorneys for Complainants,
Independent Telephone Companies
Second Floor, Bremer Bank Building
20 1st Street SW
P.O. Box 1000
Minot, ND 58702-1000
Telephone (701) 852-0381
Fax (701) 857-1361

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative,)
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 Griggs County Telephone Company,)
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 Telecommunications Cooperative, Dakota)
 Carrier Network, L.L.C., and Illuminet, Inc.,)
)
 Complainants,)
)
 vs)
)
 Qwest Communications,)
)
 Respondent)

Case No.

AFFIDAVIT OF THOMAS MOORMAN

District of Columbia) ss

Thomas J. Moorman, being first duly sworn on oath, deposes and states as follows:

1. I am currently a member in good standing to practice law in the District of Columbia

2. I am currently not subject to any public disciplinary proceedings with respect to my law license in any state.

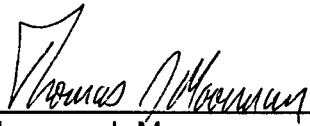
3 I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

4. I am not now nor have I ever been suspended or disbarred from a court in any jurisdiction relating to the practice of law.

5 Prior to the subject action, I have not appeared in a North Dakota state court in the past three years.


Further, affiant sayeth not.

Dated this 12 day of February, 2003



Thomas J. Moorman

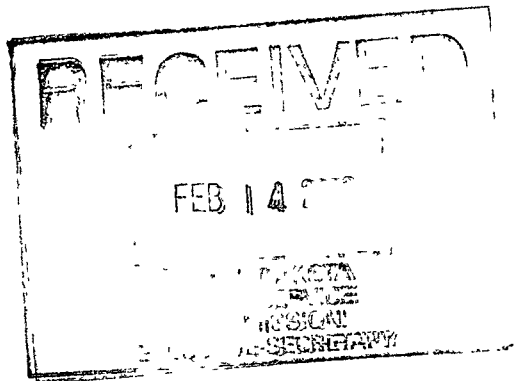
Subscribed and sworn to before me this 12th day of February, 2003.


Notary Public
For the State of
My commission expires:

CHANG HO CHOI, NOTARY PUBLIC
DISTRICT OF COLUMBIA
COMMISSION EXPIRES 6/14/2004

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative,)
Dickey Rural Telephone Cooperative,)
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Communications, Inc., West River)
Telecommunications Cooperative, Dakota)
Carrier Network, L.L.C., and Illuminet, Inc.,)
Complainants,)
vs.)
Qwest Communications,)
Respondent)



Case No. _____

ORDER

Attorney Thomas J. Moorman filed a Motion for his admission to practice law before the North Dakota Public Service Commission in the above-captioned action. After reviewing his Motion for Admission to Practice and supporting Affidavit attached thereto, the Motion is hereby granted and it is ordered that Thomas J Moorman be permitted to appear on behalf of the Complainant Illuminet, Inc., in this matter.

Dated this _____ day of _____, 2003.

PUBLIC SERVICE COMMISSION

Anthony T. Clark
Commissioner

Susan E. Wefald
Commissioner

Leo M Reinbold
Commissioner



LAW OFFICES OF

PRINGLE & HERIGSTAD, P.C.

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OF COUNSEL

HERBERT L. MESCHKE

RETIRED

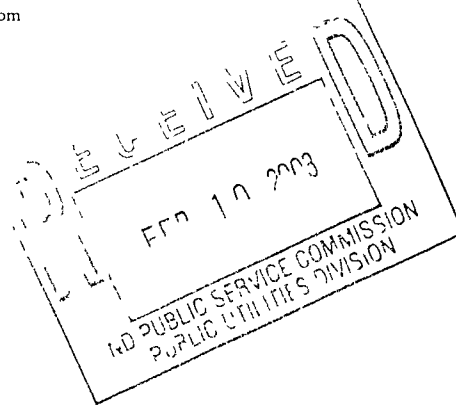
ROGER O. HERIGSTAD

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DONALD A. NEGAARD
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CAROL K. LARSON
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DENISE C. HAYS
DEBRA L. HOFFARTH
SCOTT M. KNUDSVIG



February 7, 2003

Jon H. Mielke, Executive Secretary
PUBLIC SERVICE COMMISSION
State Capitol
Bismarck, ND 58505-0480

FORMAL COMPLAINT FOR INJUNCTIVE RELIEF AND REPARATIONS

Enclosed for filing are an original and eight copies of a Formal Complaint for Injunctive Relief and Reparations. This includes a copy for service on the respondent, Qwest Communications.

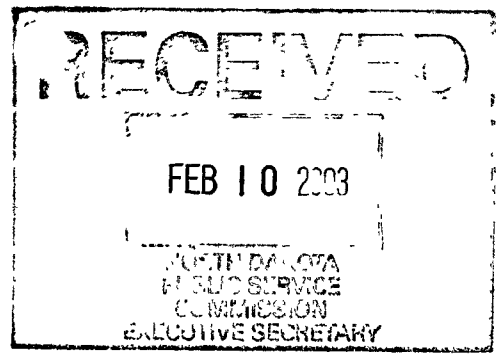
Don Negaard

jt

Enclosures

cc/enc

Jerome Tishmack, Manager - BEK Communications Cooperative
Paul Schuetzler, Manager - Consolidated Telcom
Keith Larson, Manager - Dakota Central Telecommunications Cooperative and
Dakota Central Telecom I, Inc
Darren Moser, Manager, Dickey Rural Telephone Cooperative
Ray Brown, Manager, Griggs County Telephone and Moore & Liberty Telephone
Keith Andersen, Manager - Inter-Community Telephone Company, LLC
Mark Wilhelm, Manager - Midstate Telephone Company and Midstate Communications, Inc
Dave Dircks, Manager - North Dakota Telephone Company
Kenneth Lund, Manager - Northwest Communications Cooperative
David L Dunning, Manager - Polar Communications Mutual Aid Corporation
and Polar Telecommunications, Inc
Royce S Aslakson, Manager - Reservation Telephone Cooperative
Steve Lysne, Manager - SRT Communications, Inc
Kenneth Carlson, Manager - United Telephone Mutual Aid Corporation
and Turtle Mountain Communications, Inc
Albert R Grosz, Manager - West River Telecommunications Cooperative
David Crothers, North Dakota Association of Telephone Cooperatives
Thomas Moorman, Kraskin, Lesse & Cosson, LLP
Danny Oberg, Illuminet
Richard Wolf, Illuminet
Evan Hass, Dakota Carrier Network, LLC
Val Wimer, John Staurulakis, Inc
Jim Howard, John Staurulakis, Inc



BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
 Consolidated Telcom, Dakota Central)
 Telecommunications Cooperative, Dickey)
 Rural Telephone Cooperative, Griggs County)
 Telephone Company,)
 Inter-Community Telephone Company, LLC,)
 Midstate Telephone Company, Midstate)
 Communications, Inc., Moore & Liberty)
 Telephone Company, North Dakota)
 Telephone Company, Northwest)
 Communications Cooperative, Polar)
 Communications Mutual Aid Corporation,)
 Reservation Telephone Cooperative, SRT)
 Communications, Inc , United Telephone)
 Mutual Aid Corporation, Turtle Mountain)
 Communications, Inc , West River)
 Telecommunications Cooperative, Dakota)
 Carrier Network, L L C , and)
 Illuminet, Inc ,)
)
 Complainants,)
)
 vs)
)
 Qwest Communications,)
)
 Respondent)

Case No

FORMAL COMPLAINT FOR INJUNCTIVE RELIEF AND REPARATIONS

Complainants, BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company, LLC, Midstate

Telephone Company, Midstate Communications, Inc , Moore & Liberty Telephone Company, North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, Reservation Telephone Cooperative, SRT Communications, Inc , United Telephone Mutual Aid Corporation, Turtle Mountain Communications, Inc , and West River Telecommunications Cooperative (hereinafter referred to as the “ITC group” and individually as an “ITC”), Dakota Carrier Network, L L C (herein “DCN”), and Illuminet, Inc (hereinafter “Illuminet”) (jointly “Complainants”), through their attorneys, complain against the Respondent, Qwest Communications, Inc (hereinafter “Qwest”), and allege as follows

INTRODUCTION

1 Complainants propose that this proceeding will require a hearing as a result of the nature of the issues to be resolved and of the importance of those issues to the parties hereto and to other similarly situated entities in the State of North Dakota. Complainants propose that the North Dakota Public Service Commission (hereinafter “Commission”) schedule the hearing at the earliest possible date and allow the parties to submit pre-filed expert testimony where the Complainants would file their initial testimonies, Qwest would file responsive testimony to the Complainants’ testimonies, and the Complainants would be permitted to file rebuttal testimony to that filed by Qwest. Moreover, Complainants’ request that the parties be permitted to file a post-hearing brief.

2 This matter concerns Complainants’ allegation that Respondent Qwest has violated state law and policy, as well as its contractual and tariff obligations, in the State of North Dakota, by virtue of its improper implementation of its existing

“unbundled” intrastate Signaling System No 7 (“SS7”) tariff structure

THE PARTIES TO THIS PROCEEDING

3 Each of the ITCs are organized under the laws of the State of North Dakota, with their primary places of business located in North Dakota. They are more fully described in Exhibit A attached hereto. The ITC companies are authorized to provide local exchange and other telecommunications services within the State of North Dakota. Each of the ITCs initiates and receives the SS7 messages at their service switching points (“SSP”), which are part of their local switches, Qwest’s charges for which are the subject of this Complaint.

4 Complainant DCN is a limited liability company organized and existing under the laws of the State of North Dakota. DCN is a third-party non-common carrier of SS7 services for a variety of carrier/customers in North Dakota. DCN does not serve any end users with SS7 services or any voice-switched services over its own facilities and does not initiate any of the SS7 signaling messages, the Qwest charges for which are the subject of this Complaint. DCN serves several communications companies, providing SS7 aggregation to the ITCs, all of which are the owners of DCN except for the Complainants, Midstate Communications, Inc., and Turtle Mountain Communications, Inc.¹

5. All pleadings, correspondence, and other communications concerning this Complaint should be directed to DCN’s and ITC’s attorney as follows

¹ These two Complainants are actually subsidiaries of two other Complainant-owners of DCN

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donn@srt.com

6 Complainant Illuminet is a third-party non-common carrier provider of SS7 services nationwide to telecommunications carriers (which Illuminet refers to as “carrier/customers”) Illuminet is a wholly owned subsidiary of VeriSign, Inc , a corporation organized and existing under the laws of the State of Delaware Illuminet is a third-party non-common carrier of SS7 services for a variety of carrier/customers in North Dakota Illuminet does not serve any end users, does not carry any end user traffic of its own or of its carrier/customers, nor does it initiate any of the intrastate SS7 signaling messages, the Qwest charges for which are the subject of this Complaint Illuminet serves over 900 telecommunications carriers across the country, providing SS7 connectivity to all segments of the telecommunications industry including competitive local exchange carriers (“CLECs”), interexchange carriers (“IXCs”), incumbent local exchange carriers (“ILECs”), and commercial mobile radio service (“CMRS”) providers Illuminet provides these carrier/customers with the ability to utilize Illuminet as a portion of their SS7 network in order for these carrier/customers to be able to deliver advanced intelligent network and database services to their end user customers and to efficiently process end user traffic over their networks Illuminet deployed its SS7 network to provide a competitive alternative to the SS7 services of other providers (such as Qwest) and has achieved nationwide connectivity of its SS7

network

7 All pleadings, correspondence, and other communications concerning this Complaint should be directed to Illuminet's attorney as follows

Thomas J Moorman, Esq
Kraskin, Lesse & Cosson, LLC
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Washington, D C 20037
Telephone (202) 296-8890
Fax (202) 296-8893
tmoorman@klctele.com

8 Upon information and belief, Respondent Qwest is a corporation organized and existing under the laws of the State of Delaware Qwest is authorized by the Commission to provide facilities-based local exchange service in the State of North Dakota. Complainants are informed and believe, and thereon allege, that Qwest's North Dakota address is 220 North 5th Street, Bismarck, North Dakota 58501

FACTUAL ALLEGATIONS

9 Each of the ITCs are authorized by the Commission to provide both local exchange services to their respective end users (including expanded local calling or what is often referred to as "Extended Area Service" or "EAS") and exchange access services, which enable intrastate toll providers (such as Qwest and other IXCs) to originate and terminate intrastate toll services within the ITCs' respective service areas With respect to exchange access services, the ITCs are typically connected via Feature Group C voice trunks to the closest Qwest Tandem For EAS services provided jointly with Qwest, an ITC is typically connected directly via Feature Group C voice trunks to a

Qwest end office In the instances where an ITC and Qwest have an EAS route that utilizes a Qwest Tandem, the facilities between the ITC and Qwest may carry a mixture of intraLATA toll, interLATA toll, and EAS traffic Where end-office-to-end-office connections are established between the ITC and Qwest for EAS, the trunks connecting those end-offices are intended to carry only EAS traffic

10 In order for end user traffic to be completed, some form of “signaling” is required by the originating and terminating carriers Prior to the deployment of SS7 signaling capability, the signaling required to set up, complete, monitor, and tear down end user traffic (i.e., “call”) between Qwest and the ITC was handled with “in-band” signaling on the same trunks as the actual voice traffic² SS7 signaling is a more efficient signaling process that allows for faster call setup and new features using “out-of-band” signaling, all without tying up voice trunks until the call is actually completed After SS7 signaling capability was deployed by both Qwest and the ITC, the associated signaling no longer was transported over the voice trunks but rather was routed over separate SS7 network facilities Although the signaling and voice may take separate routes, both routes are necessary to complete a call

11 The ITCs migrated from in-band (such as “multi-frequency”) signaling to SS7 signaling in 1994 Initially, because they individually lacked the size to justify the expense of deploying their own individual SS7 network, the ITCs leased from Qwest certain SS7 components such as the signaling trunks between the ITC’s end

² For purposes of this complaint, references to “voice” traffic also includes end user-generated “data” traffic and both are collectively used to distinguish that portion of the network used for end user traffic

office SSPs and the Qwest STP, STP switching and Database functions. The functions provided by the SSPs are required for call setup and teardown in an SS7 environment. Over time, the ITCs found, that by aggregating their SS7 traffic, the use of both their respective voice facilities and the associated SS7 functionalities could be optimized. The ITCs also established control over their respective networks and service/functionality needs. Accordingly, the ITCs directed DCN to purchase a pair of SS7 network components, called Signal Transfer Points or "STPs", in order to aggregate the SS7 signaling from the ITCs within North Dakota. DCN, in turn, entered into contractual arrangements with Illuminet to connect the DCN STPs to those operated by Illuminet in order for the ITCs to gain nationwide SS7 connectivity with other telecommunications carriers. As a result of these arrangements, the ITCs effectively designated DCN (which in turn contracted with Illuminet) as their agent for the transport and routing of the SS7 message signaling component of the ITCs' end user traffic. DCN and Illuminet conduct their respective SS7 message signaling transport operations consistent with such agency relationships, including the transport of SS7 messages destined to or received from the Qwest SS7 network or other third party SS7 networks. This relationship is also reflected in the "Letters of Agency" ("LOAs") required by Qwest from Illuminet prior to allowing any SS7 signaling to be exchanged to and from Qwest's SS7 network. As a result of the contractual relationship between Illuminet and DCN, Illuminet passes through (without mark-up) certain Qwest charges to DCN, including the intrastate SS7 message charges assessed by Qwest pursuant to the Qwest intrastate access tariff. DCN, in turn, similarly passes these

charges on to the ITCs (without mark-up)³ Through their respective end office SSPs, the ITCs initiate and receive SS7 signaling messages, the Qwest treatment and charges for which are at issue in this Complaint

12 When a call is completed between Qwest and an ITC (such as in the case of an EAS call or a call made by a presubscribed toll end user of Qwest), SS7 messages are exchanged between the ITC and Qwest For example, where the end user traffic is originated over the ITC network, the ITC initiates an SS7 message from its end office/SSP, which is transported to the DCN STP then transported to the Illuminet STP then to the Qwest STP and to the Qwest end office Similar SS7 messages are initiated by Qwest and received by the ITC if the call is originated in a Qwest service area Once the SS7 messages are exchanged, and a path on the voice trunk between Qwest and the ITC and the end user line is available to complete the end user call, the SS7 network components at the two end offices involved (i.e., the SSPs) effectively communicate that fact to the voice portion of the switches which then complete the end user's call via the direct voice trunks between Qwest and the ITC In these instances, the call could not be completed without the SS7 messages that set up the call or without a physical voice path between the two end office switches SS7 messages are also exchanged when intrastate toll calls of a customer presubscribed to an IXC are either originated or terminated in the ITCs' respective service areas. As indicated above, most of the ITCs connect to other carriers (such as IXCs) via the closest Qwest Tandem

³ The complainants note that certain of the ITCs receive invoices directly from Illuminet for the improperly assessed Qwest SS7 message charges However, regardless of the entity (i.e. either Illuminet or DCN) that passes through the Qwest SS7 message charges to the ITC, each of the ITCs has connected its SSP to the DCN STPs, which as explained above, are then connected to the Illuminet STPs

13 When end user traffic is routed through the Tandem, and the IXC's toll traffic is originating over the ITC's network, the SS7 messages are initiated by the ITC's SSP, transported from the ITC to DCN and on to Illuminet, then transported from Illuminet to Qwest to the IXC, and, ultimately to the terminating LEC SSP. Similar SS7 messages are initiated and transported for the IXC's toll traffic if that IXC's end user traffic is originated by Qwest and terminated by the ITC. When a voice path is identified as available, the SSPs at the two end offices communicate this fact to the voice portion of the local switch and the end user toll call is completed or, depending on the network configuration, the two end offices communicate this fact through the IXC's SSP, and the end user toll call is completed. These physical and logical arrangements for toll call completion are currently in effect.⁴

14 On July 31, 2001, Qwest amended Section 15 of its North Dakota Access Service Price Schedule and added a usage-sensitive SS7 call setup charge for the intrastate toll calls covered in the access tariff (the "SS7 Message Tariff"). This charge is in addition to the switched access minute of use charges assessed to (or, where required, imputed by) intrastate toll providers. In its filing, Qwest proposed substantially the same rate structure in the SS7 Message Tariff as that permitted by the First Report and Order in FCC 97-158 released on May 16, 1997, by the Federal Communications Commission ("the "FCC"). By analogy, and for reference in this matter, the FCC's decision allowed interstate price cap ILEC carriers to change the rate structure of local

⁴ The same exchange of SS7 messages referenced in the paragraphs 3, 6, 9, 10, 11, 12, and 13 apply equally to all Illuminet carrier/customers that are either CMRS providers, CLECs or ILECs

switching access elements⁵ Under the federal rules, price cap LECs may not recover through these new SS7 charges any costs recovered through other rate elements Qwest initially made this change by modifying its FCC interstate access tariff effective May 2000 In that filing, the local switching rate was reduced, consistent with the FCC requirement to eliminate charging for signaling costs in two different rate elements

15 Accordingly, pursuant to the SS7 Message Tariff, intrastate toll providers who utilize Qwest's switched access services would experience some offset of the new SS7 rates by the reduction in (or, where required, the imputation of) Qwest's switched access rate. To this end, the Complainants do not object to Qwest changing its access rate structure as applied to IXCs However, the Complainants do object to how Qwest is applying the SS7 Message Tariff rate elements that are integral components of all other intrastate end user traffic types such as, but not limited to, the ITCs' EAS traffic and the jointly provided exchange access traffic provided in conjunction with Qwest

16 Qwest has filed similar tariffs in most of its 14-state local service territories with prices identical to those filed with the FCC,⁶ including the SS7 Message Tariff in North Dakota Illuminet and telecommunications carriers have successfully opposed the *approval* of similar tariffs in the States of Arizona, Utah, Minnesota, and

⁵ The new federal rate structure recovers the costs of interstate call setup performed with out-of-band signaling using SS7 on a per-call basis instead of recovering those costs within their switched access charges, assessed on a per-minute basis Paragraph 138 of the FCC's Order modifies 47 C F R 69 106 The revised Regulation 69 106(g) permits interstate price cap ILECs to establish a separate per-call setup charge assessed on IXCs for all interstate calls handed off to or received from the IXC's point of presence

⁶ The Complainants note that, to the best of their knowledge, Qwest has not filed an intrastate SS7 message rate structure in either Oregon or South Dakota

Washington Qwest withdrew its tariff in Washington prior to any formal action by the state commission on the objection raised by Illuminet Facing increasing opposition to its tariff, Qwest withdrew its tariff proposal in Arizona and Utah In Minnesota, after the Minnesota Department of Commerce had issued over 70 data requests to Qwest concerning the proposed tariff and at least one party having filed a motion to dismiss Qwest's proposed tariff application, Qwest likewise withdrew its tariff filing on January 28, 2002

17 Illuminet and a number of its carrier/customers have also filed complaints in other states seeking relief similar to that requested herein For example, on December 9 and 10, 2002, hearings were held before the Idaho Public Utilities Commission to address a complaint filed by Illuminet and certain of its Idaho carrier/customers⁷ The Idaho complaint raised issues substantially the same as those raised herein regarding the improper application by Qwest of its Idaho intrastate SS7 message charge structure That SS7 message rate structure and Qwest's application of it are identical to the structure and application of the SS7 Message Tariff Post-hearing filings in that case are scheduled to be completed in February 2003

18 On December 17, 2002, the Nebraska Public Service Commission ("NPSC") entered its Findings and Conclusions in Dockets FC-1296 and FC-1297 in response to a complaint filed by, among others, Illuminet The NPSC decision found, *inter alia*, that Qwest's implementation of SS7 message charges in Nebraska was

⁷ Based on the method (albeit improper) that Qwest has consistently utilized in other states, See Idaho Public Utilities Commission, Case No QWE-T-02-11

improper and invalidated the amendments to Qwest's Nebraska Access Catalog that implemented such charges. See Attachment A. Qwest's Nebraska SS7 message rate structure and Qwest's application of it are identical to the structure and application of the SS7 message structure at issue in this Complaint. In its decision, the NPSC ordered Qwest to withdraw its SS7 message rate structure retroactive to the date it was originally effective. Qwest sought reconsideration of the NPSC decision, which was denied on January 28, 2003. See Attachment B.

19 Qwest's implementation of the SS7 Message Tariff has the effect of inappropriately charging (directly or indirectly) the ITCs and the non-IXC carrier/customers of Illuminet for SS7 call setup messages.⁸ Specifically, Qwest is misapplying the SS7 Message Tariff by charging the ITCs for SS7 signaling associated with EAS calls that originate or terminate to ITCs, and charging both ITCs and IXCs SS7 signaling for the same IXC toll calls that are routed through Qwest's Tandem. Based on the method (albeit improper) that Qwest has consistently utilized in other states, Illuminet believes that Qwest is also improperly assessing its SS7 Message Tariff's SS7 message charges for various end user traffic types exchanged between Qwest and Illuminet's CLEC or CMRS carrier/customers, that are otherwise already addressed in the Interconnection Agreements ("ICAs") and entered into between Qwest and the carrier customer. As a result of these actions, Qwest has gained approximately \$47,000 per month, or \$568,000 per year, in new revenues from the ITCs, at the

⁸ Call setup messages, regardless of the particular technology employed (e.g., multi-frequency, dial-pulse, SS7), are interoffice signals exchanged between central offices in the course of establishing, maintaining, and disconnecting telephone calls and, as such, are an integral component of the end user traffic carried during those telephone calls.

expense of North Dakota rural ITC customers and, in total for all Illuminet's North Dakota carrier customers, approximately \$101,000 per month or \$1.2 million per year

20 The arrangement that governs the compensation for EAS traffic (including the SS7 signaling messages associated with such EAS traffic) in North Dakota is the EAS arrangement between the ITCs and Qwest, not the Qwest SS7 Message Tariff. The ITCs and Qwest/US West/North Dakota Bell have been operating under negotiated EAS arrangements since they began such service offerings. The current arrangements are such that the two LECs (Qwest and an ITC)⁹ will exchange EAS traffic on a bill and keep basis to an agreed meet point, i.e., neither carrier pays the other for originating or terminating traffic but instead recovers from the rates charged to its end users all of that LEC's switching and transport costs associated with the EAS traffic exchanged. Just as were the costs associated with "in-band" signaling, the costs of SS7 signaling are and continue to be part of the existing EAS bill and keep arrangements between the ITCs and Qwest.

21 The fact that ITCs are fulfilling their EAS obligations by contracting with DCN (and DCN with Illuminet) for SS7 connectivity and signaling message transport required for the setup and teardown of EAS traffic with Qwest does not change the bill and keep arrangements. Rather, Qwest is unilaterally changing the terms of the current EAS bill and keep arrangements by charging SS7 message charges for the EAS traffic exchanged between the ITCs and Qwest. Qwest is now charging the ITCs through Illuminet and DCN for both Qwest's and the ITC's SS7 messages, resulting in the ITCs

⁹ Qwest canceled older EAS agreements with the ITCs over a period of time that varies from ITC to ITC. Qwest has not, however, negotiated replacement agreements. Since there is no replacement arrangement, both parties have been operating on an agreement for each company to bear its own costs for EAS traffic as discussed herein.

being asked to pay Qwest for Qwest's signaling costs. Qwest's application of a SS7 Message Tariff rate element to this traffic is an overt mechanism to gain revenue from the ITCs by unilaterally changing existing arrangements.¹⁰

22 Moreover, the ITCs understand that Qwest is also assessing SS7 message charges to both the IXC and the ITC for the IXC's toll calls that pass through Qwest's Tandem. Most of the ITCs connect to IXCs indirectly through Qwest's Tandem, and, as a result of traditional meet point billing concepts, both the ITC and Qwest bill the IXC for their respective portion of the network required to originate and/or terminate the IXC's toll traffic. This arrangement is referred to as "meet point billing" ("MPB").¹¹ In this arrangement, both parties are responsible for their own switched access costs, which they recover directly from the IXCs through access charges. The ITCs are responsible for end office switching and transport to an agreed-to physical location on the trunk facilities between Qwest and the ITC, the so-called "meet point." The ITCs in turn bill the IXC for the end office originating or terminating access rate element and for the transport mileage between the ITC and the "meet point" with Qwest. Qwest provides both transport from the "meet point" to the Tandem, the tandem switching and transport to the IXC switch. Qwest directly charges the IXC for the transport mileage

¹⁰ As indicated above similar concerns are raised with respect to the assessment of charges made by Qwest to Illuminet that are then flowed through without mark up by Illuminet to its CLEC and CMRS carrier/customers. The relationships that these two classes of Illuminet carrier/customers have with Qwest are governed by Commission approved ICAs. To the extent that these ICAs do not specifically provide either for separate and distinct charges for SS7 messages associated with the exchange of local traffic or for an assumption by the Illuminet carrier/customer of such charges in a Meet Point Billing arrangement with Qwest, Qwest assessment of such SS7 message charges effects the same unilateral change by Qwest in the governing terms and conditions included with the ICAs.

¹¹ Specifically, "Meet-Point Billing" refers to an arrangement whereby U S WEST and ITC jointly provide facilities between a U S WEST switch and an ITC switch (or vice versa) in order to provide switched access service to one or more IXCs. MPB establishes the procedure to bill the IXCs for the jointly provided switched access and to appropriately share the revenue based on the U S WEST and ITC tariffs or contracts in effect. Reference U S WEST Technical Pub 77384.

rate elements and the tandem switching access rate element. This standard industry arrangement does not have provisions that permit Qwest to charge the ITC for any portion of the exchange access jointly provided with Qwest for a third-party IXC toll call, including the SS7 messages that are an integral component of that toll call (as they are for all other end user traffic types)

23. Instead of following this industry standard where each LEC recovers its costs from the IXC, Qwest is not only assessing an SS7 message charge to the IXC but is also assessing the ITC for SS7 messages associated with the toll calls routed to and from the IXC. This is tantamount to double charging for the same function. By way of example, this practice is strictly prohibited in the FCC rules, which state that the SS7 charges can only be charged to IXCs.¹² Although the FCC does not govern the North Dakota Access Tariff, the FCC rules do provide a rationale for applying the new charges, which should also be adopted by the North Dakota Commission.

24. Unless Qwest is enjoined and restrained from these continuing violations of state law and policy, as well as its own tariffs, the ITCs will continue to be irreparably harmed. As a result of Qwest charging the ITCs new SS7 message charges, the ITCs' cost of providing local voice services increases and Qwest gains a revenue stream that increases their profits. The ITCs do not believe it is in the public's interest to penalize rural customers to the benefit of Qwest.

¹² 47 C.F.R., 69.108 (g)

FIRST CAUSE OF ACTION

Violation of Qwest's EAS Agreement and Arrangements with ITCs

25 Complainants incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein

26 In misapplying the terms of its SS7 Message Tariff to all signaling messages exchanged between ITC (via its SS7 signaling transport agents) and Qwest, Qwest violates the following provisions of its EAS agreement with each ITC

a EAS Traffic: As explained above, each of the ITCs has agreed with Qwest to a "bill and keep" arrangement whereby each party is responsible for its own switching and the transport to the meet point for EAS traffic exchanged between them. No funds are to be exchanged in these arrangements. For this reason, Qwest's billing for signaling associated with both originating and terminating EAS traffic, directly or indirectly (through ITC's SS7 signal transport agents), is in conflict with these agreed-to terms. Charging these rates thereby shifts all of Qwest's signaling costs to the ITCs associated with the EAS traffic exchanged with the ITCs.

b Jointly Provided Exchange Access Traffic: As explained above, each of the ITCs and Qwest have agreed to a "meet point" billing compensation arrangement for handling traffic sent between the ITC and IXCs via Qwest's tandem. Under such arrangements, each LEC (i.e. Qwest and the ITC) charges the IXC for originating and terminating that IXC's intrastate toll traffic according to the LEC's access tariff(s) and *neither* LEC charges the other LEC for such traffic. Qwest's billing of the ITC (directly or via Illuminet and DCN) for SS7 messages

associated with jointly provided exchange access is in violation of the standard meet point billing arrangement. Moreover, if Qwest charges *both* the IXC and ITC for SS7 signaling on a meet point billed call, Qwest will likely *double recover* its SS7 costs.

SECOND CAUSE OF ACTION

Violation of Qwest's Tariffs

27 Complainants incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

28 Complainants request that the compensation arrangement, which governs the handling of the end user traffic, equally govern the treatment of the SS7 messaging since that messaging is an integral component of the end user traffic. Thus, if SS7 signaling messages are associated with intrastate toll end user traffic, and intrastate toll is subject to the SS7 Message Tariff, the SS7 Message Tariff applies. If SS7 signaling messages are associated with intrastate toll end user services and the exchange access associated with such intrastate toll is subject to some arrangement other than the SS7 Message Tariff, the terms of that arrangement apply. Similarly, if SS7 signaling messages are associated with end user traffic types addressed in an applicable ICA between Qwest and an Illuminet carrier/customer or within an EAS end user traffic agreement, the terms of that agreement or arrangement apply. Qwest should be directed to cease assessing charges under the improper tariff structure, and directed to re-file the SS7 Message Tariff only when it can demonstrate that it can properly exclude from billing under the tariff all SS7 signaling messages associated with traffic not subject to the SS7 Message Tariff.

29 Since Qwest has provided no mechanism to “shield” SS7 messages associated with non-intrastate toll end user traffic from access charges, there exists no method in Qwest’s SS7 Message Tariff for applying the terms and conditions of the existing agreements or arrangements applicable to these distinct categories of non-intrastate toll end user traffic

THIRD CAUSE OF ACTION

Violation of State Law and Policy

30 Complainants incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein

31 Qwest’s actions of charging third-party SS7 signaling transport providers for SS7 signaling associated with non-intrastate toll end user traffic through Qwest’s SS7 Message Tariffs, and supplying no method for applying the terms negotiated in an ICA or an EAS agreement between Qwest and the party that has hired the third-party SS7 signaling transport provider, is an unlawful violation of state law and policy

32 Qwest’s implementation of the SS7 charges is also discriminatory Qwest has charged the ITCs via Illuminet, and, (in the case of its other North Dakota carrier/customers) Illuminet and DCN acting on behalf of the ITCs, usage-sensitive SS7 message charges Some of the ITCs that use Qwest as an SS7 provider are not assessed these tariffed charges for the same type of traffic that is charged when routed through the Illuminet network This is anti-competitive behavior If ITCs directly connected their SSPs to Qwest SS7 network instead of using Illuminet, the Qwest charges are not being charged, thus lowering the cost to the ITC Clearly, this lowers the cost of using Qwest services as compared to Illuminet where the charges are

added, resulting in competitive harm to Illuminet and its carrier/customers directly as a result of Qwest's discriminatory behavior

33 The ITCs have suspended payments for the disputed SS7 charges described herein commencing for the period after December 31, 2002

WHEREFORE, the ITCs, DCN and Illuminet pray that they be awarded relief as follows

1 An order issued under the Commission's authority in North Dakota Century Code section 49-02-02 and North Dakota Century Code Chapter 49-21 requiring Qwest to cease and desist from levying the three new SS7 message signaling charges contained in Section 15 of its SS7 Message Tariff effective on July 31, 2001, until the Commission has reviewed the issues raised in this formal Complaint

2 An order issued under the Commission's authority in North Dakota Century Code section 49-02-02 and North Dakota Century Code Chapter 49-21 opening a proceeding for the Commission to review the implementation of the three new SS7 signaling charges assessed by Qwest. Additionally, the Complainants herein propose that the Commission use its authority under that section to enter an order requiring the modification of the terms and conditions to ensure that the three SS7 signaling charges are applied in a fair and reasonable manner and to order refunds or credits for wrongfully assessed, excessive, and discriminatory charges pursuant to section 49-02-15 of the North Dakota Century Code

3 An order finding that since SS7 messaging is an integral component of the end user traffic, the proper framework under which SS7 message charges should be assessed must be based on the arrangement that governs the handling of the end user

traffic

4 An order finding that Qwest must reimburse carriers and pay reparations for any charges wrongly assessed since Qwest initially applied the SS7 Message Tariff

5 An order finding that Qwest has violated the terms of its EAS arrangements with the ITCs, and to direct Qwest to utilize the terms of its EAS arrangements with a carrier, not the Qwest SS7 Message Tariff, for determining when and whether SS7 message charges associated with non-intrastate toll end user traffic are to be assessed, regardless of whether the carrier uses a third-party SS7 signaling provider

6 An order directing that as applied to the SS7 messages associated with traffic exchanged between Qwest and ITCs and between Illuminet's other carrier/customers and Qwest, Qwest's SS7 intrastate switched access rate be applicable only to IXCs for those SS7 signaling messages associated with Qwest's handling of intrastate switched access traffic, and directing Qwest not to apply its SS7 Message Tariff's SS7 message rates associated with (1) EAS traffic exchanged between the ITC and Qwest, (2) jointly provided exchange access services provided by Qwest and the ITC to an IXC, and (3) any end user traffic that may otherwise be addressed within an ICA between Qwest and an Illuminet carrier/customer (collectively the "Excluded Intrastate End User Traffic")

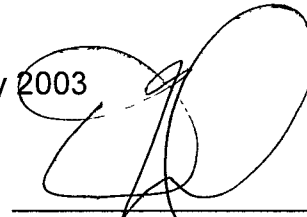
7 An order directing Qwest to withdraw the SS7 Message Tariff revisions that are the subject of this complaint until and unless, in coordination with and agreement by the Complainants, Qwest can demonstrate with substantial evidence that it can implement an intrastate "unbundled" SS7 message rate structure that includes all

necessary capability to segregate, identify and properly bill for SS7 messages other than those messages associated with Excluded Intrastate End User Traffic (as that term is defined above)

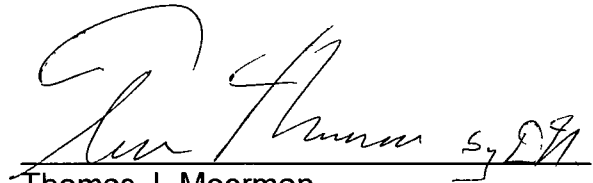
8 For an order finding that the ITC's suspension of payments to Qwest for improper charges was authorized pursuant to North Dakota Administrative Code Section 69-09-09-02(9)

9 Such other and further relief as the Commission deems just and proper or is authorized under North Dakota law

Dated this 7th day of February 2003



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EXHIBIT A

1. BEK Communications Cooperative: BEK is a North Dakota cooperative headquartered in Steele, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
2. Consolidated Telecom: Consolidated is a North Dakota cooperative headquartered in Dickinson, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
3. Dakota Central Telecommunications: Dakota Central is a North Dakota cooperative headquartered in Carrington, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
4. Dickey Rural Telephone Cooperative: Dickey Rural is a North Dakota cooperative headquartered in Ellendale, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
5. Griggs County Telephone Company: Griggs County is a North Dakota cooperative headquartered in Cooperstown, North Dakota, and is providing, among other services, local exchange services.
6. Inter-Community Telephone Company, LLC: Inter-Community is a North Dakota limited liability company headquartered in Nome, North Dakota, and is providing, among other services, local exchange services.
7. Midstate Telephone Company: Midstate Telephone is a North Dakota corporation headquartered in Stanley, North Dakota, and is providing, among other services, local exchange services.
8. Midstate Communications, Inc: Midstate Communications is a North Dakota corporation headquartered in Stanley, North Dakota, and is providing, among other services, local exchange services.
9. Moore & Liberty Telephone Company: Moore & Liberty is a North Dakota corporation headquartered in Enderlin, North Dakota, and is providing, among other services, local exchange services.
10. North Dakota Telephone Company: North Dakota Telephone is a North Dakota corporation headquartered in Devils Lake, North Dakota, and is providing, among other services, local exchange services.

11. Northwest Communications Cooperative: Northwest is a North Dakota cooperative headquartered in Ray, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
12. Polar Communications Mutual Aid Corporation: Polar is a North Dakota cooperative headquartered in Park River, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services
13. Reservation Telephone Cooperative: Reservation is a North Dakota cooperative headquartered in Parshall, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
14. SRT Communications, Inc.: SRT is a North Dakota cooperative headquartered in Minot, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
15. United Telephone Mutual Aid Corporation: United is a North Dakota cooperative headquartered in Langdon, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services.
16. Turtle Mountain Communications, Inc.: Turtle Mountain is a North Dakota corporation headquartered in Langdon, North Dakota, and is providing, among other services, local exchange services.
17. West River Telecommunications Cooperative: West River is a North Dakota cooperative headquartered in Hazen, North Dakota, and is a consumer-owned cooperative providing, among other services, local exchange services

ATTACHMENT A

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Cox Nebraska Telcom, LLC) Formal Complaint
and Illuminet) No. FC-1296
Complainants,)
)
v.)
)
Qwest Communications, Inc.)
Respondent.)
)
ALLTEL Nebraska, Inc., ALLTEL) Formal Complaint
Communications of Nebraska,) No. FC-1297
Inc. and Illuminet, Inc.,)
)
Complainants,) ORDER GRANTING RELIEF
v.)
)
Qwest Corporation,)
Respondent.) Entered: December 17, 2002

APPEARANCES:

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BY THE COMMISSION:

B A C K G R O U N D

Introduction

1. The Nebraska Public Service Commission (Commission) has before it for resolution two formal complaints, combined for record purposes and resolution. As discussed in more detail below, the Complainants are Cox Nebraska Telcom, LLC (Cox); Illuminet, Inc. (Illuminet); ALLTEL Nebraska, Inc.; and ALLTEL Communications of Nebraska, Inc. (together ALLTEL).

2. Generally, the Complainants allege that Qwest Corporation (Qwest) has improperly implemented the restructuring of Qwest's intrastate Signaling System No. 7 (SS7) services pursuant to a revision in Qwest's Nebraska Access Catalog that became effective June 6, 2001 (the Access Catalog). More specifically, the Complainants allege that Qwest, in its effort to establish separate charges for transport of SS7 signaling (which the parties have referred to as efforts to "unbundle" SS7 message charges, i.e., SS7 charges have been unbundled from the local switching and tandem switching rate elements associated with exchange access traffic), has implemented its Access Catalog structure in a manner that assesses SS7 message charges for all end-user traffic regardless of whether that end-user traffic is properly subject to the access charges. Accordingly, the Complainants requested this Commission to order Qwest to refund any improper charges assessed by Qwest under its unbundled SS7 rate structure, and that Qwest be ordered to withdraw this unbundled SS7 message rate structure unless and until Qwest properly implements it. Proper implementation of the unbundled SS7 rate structure at issue, according to the Complainants, would require Qwest to disaggregate billing of the various SS7 messages that it delivers and receives, and thereafter, to implement a billing mechanism (including bill detail) to ensure that the Access Catalog's SS7 message rates

are assessed only upon those SS7 messages associated with the intrastate end-user toll calls for which access charges are properly applied pursuant to the Access Catalog.

3. Qwest denies the allegations raised by the Complainants. In doing so, Qwest also denies that any relief is warranted.

4. For the reasons stated herein, we grant the relief Complainants request. As more fully described below, we direct Qwest to withdraw the Access Catalog terms that are at issue in this proceeding within five business days of the entry of this order, and within 10 days of this order, refund or credit all applicable intrastate SS7 message charges billed to date to the Complainants that are in dispute. Until such time as it can properly implement an intrastate unbundled SS7 message rate structure, Qwest shall not file any other Access Catalog revisions regarding SS7 rate structures or rates. To ensure this specific directive is achieved, and as more fully explained herein, we also direct Qwest to work with the Complainants in order to coordinate Qwest's election between the two options provided herein as to how it elects to implement properly its intrastate SS7 message rate structure within the Access Catalog.

Procedural Summary

5. On March 5, 2002, Cox and Illuminet initiated Formal Complaint No. FC-1296 by the filing of a formal complaint with the Commission. On March 26, 2002, ALLTEL initiated Formal Complaint No. FC-1297 by filing of a formal complaint with the Commission.

6. The Commission held a pre-hearing conference on May 14, 2002, after due notice to the interested parties. On May 22, 2002, the Commission entered a pre-hearing conference order consolidating these complaints for hearing and disposition. In addition, such order established a schedule for this matter, set hearing procedures and established a briefing schedule.

7. On May 24, 2002, ALLTEL and Illuminet filed an Amended Formal Complaint in Formal Complaint No. FC-1297. Qwest filed its Amended Answer in response thereto on June 5, 2002. Previously, Qwest had filed its Answer to the Formal Complaint in Formal Complaint No. FC-1296 on March 20, 2002.

8. On June 14, 2002, the Complainants jointly filed a Motion to Cease and Desist, requesting that the Commission enter an order requiring Qwest to discontinue any and all activity associated with its threats to suspend all service order activity and/or disconnect Complainants' connections to Qwest's SS7 signaling network. On July 12, 2002, and on July 15, 2002, respectively, the Complainants and Qwest filed separate Motions for Protective Order. The Commission held oral arguments relating to the aforementioned motions on July 22, 2002, and on July 23, 2002, the Commission entered Progression Order No. 1 in these dockets granting Complainants' Motion to Cease and Desist, and granting Complainants' Motion for Protective Order with modifications. In addition, the Commission modified the schedule established in the pre-hearing conference order. Subsequently, on September 11, 2002, pursuant to the agreement of the parties, the Commission entered Progression Order No. 2 that further revised the schedule pertaining to these dockets.

9. The public hearing on these dockets was held on October 22 and 23, 2002. At the outset of the public hearing in these dockets, legal counsel for ALLTEL made a motion to exclude evidence that might be offered by Qwest on the issue of the revenue neutrality of Qwest's unbundling of its SS7 services pursuant to the Access Catalog amendments that became effective June 6, 2001 (Exhibit 12). In support of such motion, ALLTEL offered Exhibits 1 through 11 which were received into evidence by the Commission and which described ALLTEL's efforts to obtain complete and timely responses to ALLTEL Discovery Request Nos. 2, 3, 6 and 41, among other discovery requests. Such discovery requests sought demand calculations and rate and revenue reduction data in connection with Qwest's unbundling of its SS7 services.¹ After

¹ The Commission notes that in Qwest's Supplemental Answers and Objections (Exhibit 7), "Response to Interrogatory No. 5" on page 5 thereof, Qwest states: "Confidential attachment A [Exhibit 2] is the documents [sic] Qwest used to reduce its access revenues and contains these demand calculations and the rate and revenue reductions. No other documents were used in this calculation." We further note that in the Surrebuttal Testimony of Scott A. McIntyre filed with the Commission on October 15, 2002, Mr. McIntyre states at page 18 " . . . Qwest disclosed to the Complainants all demand data regarding SS7 in its response to ALLTEL Request No. 41." However, at 4:14 p.m. on October 21, 2002, the afternoon before this hearing began, Qwest transmitted a facsimile to Complainants containing demand and revenue data (Exhibit 10) without any explanation for the untimely submission of this data.

a brief recess of the October 22 hearing, the Commission granted the motion made by ALLTEL, directing that the record be expunged of any evidence that Qwest would propose offering regarding whether the unbundled SS7 rate structure filed in the Access Catalog was revenue neutral to Qwest. We now affirm that ruling and provide our reasoning for it.

10. In granting the relief requested by ALLTEL, the Commission is mindful of the guidance from the Supreme Court of Nebraska that it "will not permit litigants to impede an opponent's legitimate discovery efforts through unfounded recalcitrance," and further that "playing games with the court will not be tolerated." *Stanko v. Chaloupka*, 239 Neb. 101, 103, 474 N.W.2d 470 (1991). Similarly, in *Schindler v. Walker*, 256 Neb. 767, 778, 592 N.W.2d 912 (1999) the Supreme Court stated that "[w]hile there is no applicable rule or statute governing a trial court's exclusion of evidence, a trial court's exclusion of evidence can be sustained as an exercise of a trial court's inherent powers."

11. As the parties to this proceeding are aware, Commission Rule of Procedure 016.11 makes the Nebraska Supreme Court's Rules of Discovery for Civil Cases applicable to proceedings before this Commission. Supreme Court Rule 26(e)(2) requires a party to seasonably amend a prior discovery response in certain circumstances as enumerated therein. Supreme Court Rule 37(b)(2)(C) provides for the imposition of sanctions in certain circumstances. In light of the directives and discretion granted triers of fact by the Supreme Court, we find that, based on the specific circumstances presented to us, Qwest failed to comply with Rule 26(e)(2), and that the parties' resolution of the discovery dispute concerning the ALLTEL Discovery Requests in question pursuant to the letter to the Hearing Officer (Exhibit 4) brings this matter within the ambit of Rule 37(b)(2)(C). The record demonstrates Qwest's failure to fulfill its obligations pursuant to applicable Commission rules. Accordingly, any evidence that might have been offered by Qwest on the issue of the revenue neutrality of Qwest's unbundling of its SS7 should be and hereby is excluded from the record that the Commission considers in deciding the merits of these Complaints.

12. We also had three additional procedural matters left unresolved at the hearing. The first matter concerns whether the Commission should entertain evidence by Qwest with respect

to the proper interpretation of its interconnection agreement (ICA) with ALLTEL. As indicated in the transcript of this matter, ALLTEL objected to this evidence provided by Qwest witness McIntyre on the basis of the lack of foundation.² The Commission overrules the objection. While the Commission acknowledges that such testimony appears to be hearsay and speculative in nature, no party invoked the rules of evidence applicable in district court. Furthermore, the Commission has historically accepted such testimony from individuals with general corporate knowledge and oversight of the circumstances being described in an effort to eliminate the need for a multitude of witnesses. Had ALLTEL, or for that matter any other party, chosen to part from the Commission's normal practice in allowing such testimony, they should have invoked the rules of evidence pursuant to Neb. Rev. Stat. § 84-914. Therefore, while the Commission recognizes ALLTEL's concern regarding the inability for ALLTEL to cross-examine those individuals from Qwest actively involved in the ICA drafting and negotiation process, the Commission will admit the testimony but give it the appropriate weight it deserves.

13. The second matter addresses a dispute regarding Qwest's efforts to submit certain testimony and a cost study, labeled for identification purpose as Exhibits 37 and 38, purportedly demonstrating the costs of Local Interconnection Service ("LIS") trunks. In essence, the issue before the Commission is whether Qwest should be able to introduce this evidence at the hearing. Our Progression Order #1, page 2, made clear that all exhibits except for rebuttal exhibits were required to be exchanged by the parties at the time of filing pre-filed testimony. Thus, Qwest was on notice that it would be required to exchange any exhibits with the Complainants at the time it exchanged its pre-filed testimony. The record indicates it did not. The only additional explanation provided was that the proffer was to rebut ALLTEL witness Fuller's responses to cross-examination questions that purportedly indicated her belief regarding SS7 allocated costs in LIS trunks. As to this Qwest assertion, we have reviewed the transcript of her cross-examination and we can find no specific reference to support Qwest's alternative theory.³ We also note that, if Qwest's proffer of Exhibits 37 and 38 was to rebut Ms. Fuller's responses, there has been no explanation as to why Qwest did not proffer

² Tr. 328:22-329 5.

³ Tr. 162:3-220:14.

Exhibits 37 and 38 at the time of the questioning of Ms. Fuller, or at least to offer some indication at that time that Qwest believed it possessed evidence rebutting Ms. Fuller's response. Accordingly, to ensure the integrity of the Commission's processes and to ensure that parties can properly rely upon the procedural directives of the Commission, we find that Exhibits 37 and 38 will be excluded from the record in this proceeding.

14. The final procedural matter relates to Illuminet's October 31, 2002, request for acceptance of late-filed Exhibit 42. This request was made to correct inadvertent factual inaccuracies regarding Illuminet witness Florack's response to his recollection of a meeting he and others held with Qwest regarding issues similar to those raised in the Complaints. We note that no party has objected to this request, and we find that acceptance of this late-filed exhibit will ensure the integrity and accuracy of the record before us. Accordingly, Illuminet's Late-Filed Exhibit 42 will be accepted and made part of the record.

O P I N I O N A N D F I N D I N G S

Commission Jurisdiction Over these Dockets

15. It is clear that the Commission's jurisdiction to resolve the issues raised in the Complaints is derived from the authority we have been granted by the Legislature.⁴ Based on our governing statutes, we find that the procedures created and the authority specifically granted to the Commission by the Legislature to receive, hear and dispose of complaints by persons, including carriers, pursuant to Sections 75-131, 75-132, 75-132.01, 75-118.01, 75-119 and 86-803(7), confer jurisdiction on the Commission to adjudicate Complainants' property rights described in the Complaints in accordance with due process requirements of such statutes. We also find that this grant of jurisdiction and authority by the Legislature includes our ability to receive, hear and dispose of complaints such as are presented herein.

16. In Neb. Rev. Stat. Sec. 75-131 (Reissue 1996), the Legislature provides that "[a]ny person who complains of

⁴ Neb. Const. Art. IV, Sec. 20 provides: "The powers and duties of such commission shall include the regulation of rates, service and general control of common carriers as the Legislature may provide by law."

anything done or omitted to be done by any common or contract carrier may request that the commission investigate and impose sanctions on such carrier by filing a petition which briefly states the facts constituting the complaint." *Neb. Rev. Stat. Sec. 75-132* (Reissue 1996) directs that ". . . the commission shall convene a hearing on the matters complained of pursuant to its rules of procedure and shall give the parties written notice of the time and place for such hearing." Section 75-132 further directs that following such hearing, "the commission shall make such order with respect to the complaint as it deems just and reasonable." Rule 005 of the Commission Rules of Procedure sets forth the specific procedures governing the filing and disposition of formal complaints before the Commission.

17. Similar to the foregoing grant of authority, the Legislature, through *Neb. Rev. Stat. Sec. 75-132.01* (2001 Supp.), specified that ". . . the commission shall have exclusive original jurisdiction over any action concerning a violation of any provision of (a) Section 75-109, 75-604, 75-609, 75-609.01, or 86-801 to 86-810 by a telecommunications company. . . ." To this end, we note that Complainants have asserted that Section 75-609(2) is a basis for the Commission's jurisdiction of these matters, and as discussed in further detail below, Section 75-109(2) is also relevant to the resolution of the disputes in these formal complaints.

18. In addition to the foregoing Legislative directives, *Neb. Rev. Stat. Sec. 75-118.01* (Reissue 1996) provides in pertinent part that ". . . the commission shall have original exclusive jurisdiction to determine the . . . scope or meaning of a . . . tariff" and *Neb. Rev. Stat. Sec. 75-119* (Reissue 1996) provides in pertinent part that ". . . [w]hen any common carrier . . . petitions the commission alleging that . . . an existing . . . rate is unreasonably high or low, unjust, or discriminatory, notice shall be given to the common carriers affected in accordance with the commission's rules for notice and hearing." We also note that Section 75-119 requires, that if the matter in question is disputed, that matter shall proceed to hearing and the Commission shall issue an order granting or denying the petition.

19. With respect to Section 75-118.01, we note that upon complaint by any common carrier to determine the validity, scope or meaning of a tariff (we believe that the Access Catalog is a substantive equivalent of a tariff), the Commission shall give notice of such complaint, hear evidence and argument on the

complaint and thereafter render its decision on the matter. Our ability to do so has been confirmed by the Supreme Court. See *Nebco, Inc. v. Burlington Northern, Inc.*, 212 Neb. 804, 808, 326 N.W.2d 167 (1982) (The Nebraska Legislature has provided the Commission with the authority to review tariffs pursuant to Section 75-118.01.); and *Nebraska Public Service Commission v. A-1 Ambassador Limousine, Inc.*, 264 Neb. 298, 308, 646 N.W.2d 650 (2001) (Section 75-118.01 provides the Commission with authority to determine the scope and meaning of a tariff.).

20. Also applicable to the Commission's jurisdiction of these formal complaints is *Neb. Rev. Stat. Sec. 75-109(2)* (2000 Cum. Supp.) that specifies: "The commission is authorized to do all things reasonably necessary and appropriate to implement the federal Telecommunications Act of 1996 (the Act), Public Law 104-104, including Section 252 of the Act which establishes specific procedures for negotiation and arbitration of interconnection agreements between telecommunications companies." As alleged by Cox and ALLTEL, the Commission approved the ICAs at issue, and Qwest is attempting to unilaterally alter their terms through Qwest's implementation of the SS7 message charge revisions to the Access Catalog. While we will address the merits of this claim later, we note that our ability to oversee the ICAs at issue is subject to the express grant of authority to the Commission pursuant to Section 75-109(2) and 47 U.S.C. Section 252.

21. We further note that *Neb. Rev. Stat. Sec. 86-803(1)* (2000 Cum. Supp.) is certainly relevant to this proceeding. This section provides that, subject to certain exceptions, telecommunications companies are not subject to rate regulation, and that telecommunications companies shall file rate lists, which for all telecommunications service except for basic local exchange rates, shall be effective after ten days' notice to the commission. While the constitutionality of this restriction in the Commission's rate regulation authority was sustained in *State, ex rel. Spire v. Northwestern Bell Tel. Co.*, 233 Neb. 262, 445 N.W.2d 284 (1989), the Supreme Court also found that the Commission's jurisdiction continued to extend to quality of service regulation, and Section 86-803(7) provides for a complaint procedure. Moreover, in *Spire*, the Supreme Court held that "a ratepayer's right to a fair and reasonable rate, a right which has emerged from the decisions of this court, is properly classified as a "property" entitlement protected by the due process clauses of the U.S. and Nebraska Constitutions." *Id.* at 283. In order to protect this property entitlement, it is cri-

tical that this Commission exercise its jurisdiction to receive, hear and dispose of complaints such as the Complaints filed herein.

22. Based upon the foregoing constitutional, statutory and case law authorities, the Commission finds that it has jurisdiction over each of the Complaints. Moreover, we find that we possess all necessary and requisite authority to make these findings and conclusions and those required to adjudicate the property rights of the parties raised in the Complaints.

A Primer on SS7 Signaling

23. Due to the importance of the issues raised by Complainants, we also take this opportunity to provide a brief description of the components of the SS7 network relevant to the issues vis-à-vis the traffic that is carried over the voice network.⁵ We note at the outset that there is little disagreement between the parties regarding the configuration of the various SS7 components, or the prerequisite for the SS7 message generated by certain of those components (the charges for which are at issue in this case) to allow the establishment of calls between end users.

24. As the record reflects, the components that comprise the SS7 network allow for the setting up and tearing down of the voice network connections required for end-user traffic to be completed.⁶ Prior to "out-of-band" signaling, the network functions required to establish end-user calls were done through "in-band" signaling such as multi-frequency signaling that actually used the same facilities to set up and transmit the end-user call.⁷ By establishing "out-of-band" signaling through the SS7 network components,⁸ the facilities required to carry the voice traffic are not put into service unless and until it is

⁵ For purposes of our discussion and findings, we make reference at times to the "voice network" and "voice traffic" although we recognize that data is likewise carried such as in the case of Internet connections. Similarly, we use the terms "end-user traffic" and "end-user calls" interchangeably as they both reflect the exchange of communications between customers such as through local or intrastate toll calls.

⁶ See, e.g., O'Neal Testimony, Exhibit 27, 4:2; O'Neal Rebuttal, Exhibit 28, 3:14-18; McIntyre Rebuttal, Exhibit 34, 5:21-6:2; Craig Rebuttal Testimony, Exhibit 40, 7:21-8:5; Tr. 114:2-5.

⁷ See, Lafferty Testimony, Exhibit 24, 6:3-5; Florack Testimony, Exhibit 31, 6:20-22; Tr. 377:13-17.

⁸ See, e.g., O'Neal Testimony, Exhibit 27, 3:7-10; Lafferty Testimony, Exhibit 24, 5:18-20; Florack Testimony, Exhibit 31, 6:20-22.

clear that those facilities are available to carry the call.⁹ Moreover, the record reflects that this set-up and tear down of calls is faster than, and otherwise provides for features and functions that are not available with, "in-band" signaling.¹⁰ Accordingly, all parties seem to agree that the use of the SS7 signaling network is more efficient than in-band signaling, and the Commission likewise agrees with this conclusion.

25. Attached to the testimonies in this proceeding were various diagrams that depict how the typical SS7 components are configured.¹¹ For purposes of our decision, we need only address those elements required to set-up and tear down calls, since those are the functions for which Qwest has established discrete SS7 message charges.

26. The first SS7 component is the "Service Switching Point" (SSP). As described by the various witnesses, the SSP is part of the local switch of a Local Exchange Carrier (LEC).¹² In the SS7 environment, the SSP generates the signaling messages that are transported through the remaining components of the SS7 network.¹³ It is these SS7 messages that establish the end-user call, i.e., the process required to set-up or tear down a call.¹⁴ Each SSP has a unique address in the SS7 network identified through a "point code" assignment. The SS7 network, in turn, ensures that the SS7 messages are properly routed to the SSP that is associated with a given point code.¹⁵ For our purposes, we also note that Illuminet owns no SSPs; its carrier/customers do.¹⁶

27. SSPs are connected to "Signal Transfer Points" (STPs) through redundant, bi-directional facilities called "A-links."¹⁷

⁹ See, e.g., Tr. 381:10-20.

¹⁰ Accord, O'Neal Testimony, Exhibit 27, 3:15-22; Florack Testimony, Exhibit 31, 8:3-9.

¹¹ See O'Neal Testimony, Exhibit 27, Attachment; Florack Testimony, Exhibit 31, Exhibit A; Craig Rebuttal, Exhibit 40, attached Exhibit 1.

¹² See, e.g., O'Neal Testimony, Exhibit 27, Attachment; Florack Testimony, Exhibit 31, 7:15-18; Tr. 114:25 to Tr. 115:6; Tr. 127:14-17; Tr. 132:19-23.

¹³ Tr. 379:21-25.

¹⁴ See, e.g., O'Neal Testimony, Exhibit 27, 4:17-19, 5:9 through 6:10; Florack Testimony, Exhibit 31, 7:20-24; Craig Rebuttal, Exhibit 40, 9:20-10:17.

¹⁵ See, Tr. 141:21-142:6; Tr. 379:6-20; Tr. 381:2-9, See also, Florack Testimony, Exhibit 31, 6:22-26.

¹⁶ Accord, Florack Testimony, Exhibit 31, 7:24-27; Craig Rebuttal, Exhibit 40, 15:13-16.

¹⁷ See, Florack Testimony, Exhibit 31, 7:18-22.

STPs act like "traffic cops," routing (in conjunction with other STPs) the SS7 messages to the SSP operated by the carrier who provides service to the called party (in the case of a local call, for example), or another carrier that serves the end user (such as in the case of a pre-subscribed intra local access and transport area (LATA) toll call for an entity other than that which owns the SSP).¹⁸

28. The third and fourth components of the SS7 network that are relevant to these complaints are the bi-directional facilities that connect STPs, which are called "B-links," and the physical connection of those B-links to an STP called a "port."¹⁹ These specific links and ports and the charges for them are not at issue in this proceeding because Illuminet, the SS7 network provider for Cox and ALLTEL, has paid and continues to pay these charges to Qwest.²⁰ Nonetheless, the discussion of these facilities and connections is important because they provide the physical connection of the Cox and ALLTEL SSPs to the various SSPs of Qwest, over which the various SS7 messages are exchanged between Cox and Qwest and between Qwest and ALLTEL.²¹

29. The record reflects two ways in which carriers deploy an SS7 network. Like Qwest, a carrier can deploy its own SS7 network (the SSPs and STPs as well as the A-links and B-links) necessary to connect directly to other SS7 networks.²² ALLTEL has deployed its own SS7 network that creates call setup signaling and exchanges messages with Qwest.²³ Alternatively, a carrier can utilize a third party SS7 network provider such as Illuminet to provide certain portions of the SS7 network (such as the STPs and B-links and ports) required to connect that carrier's SSPs to other SS7 networks, or to connect its STPs to the STPs of Illuminet.²⁴ Regardless of the method of deployment, however, when examining the SS7 networks for purposes of call set-up and tear down, the SS7 networks have no independent func-

¹⁸ Tr. 114:10-115:15; Tr. 380:18-381:1.

¹⁹ See, e.g., Florack Testimony, Exhibit 31, 7:11-13 and 25:21-22; Tr. 240:2-6.

²⁰ See, e.g., Florack Testimony, Exhibit 31, 25:2-4 and 21-23; Tr. 337:4-9.

²¹ See, e.g., Lafferty Testimony, Exhibit 24, 13:7-12; O'Neal Testimony, Exhibit 27, 5:9 through 6:10; Tr. 379:10-17.

²² See generally, Craig Rebuttal, Exhibit 40, attached Exhibit 1.

²³ See, e.g., Tr. 116:12-20.

²⁴ See generally, O'Neal Testimony, Exhibit 27, Attachment; Florack Testimony, Exhibit 31, attached Ex. A.

tion other than to provide a method to transport the various carrier SSP-initiated SS7 messages required for end-user calls to be completed.²⁵

30. With respect to Illuminet, it purchases SS7 connections with Qwest via the links and ports available in Qwest's Access Catalog.²⁶ These connections, as the record confirms, provide a valuable consolidation of SS7 network capability to smaller carriers.²⁷ Even Qwest acknowledges the value of the economy of scale and scope that a third party SS7 network provider such as Illuminet brings to carriers that elect to limit their direct SS7 network investment and deployment.²⁸ The record is also clear that Qwest benefits from such arrangements through minimization of the maintenance, monitoring and actual number of facilities required to interconnect its SS7 network to other carriers.²⁹ Ultimately, however, it is clear that in those instances where SS7 has been implemented (such as here), no end-user traffic would be completed without the SS7 messages being generated.³⁰ Therefore, all carriers operating SSPs, that either receive or generate the SS7 messages, do benefit since the end users served can complete and receive calls.³¹

Positions of the Parties

31. Mr. Wayne Lafferty submitted pre-filed testimony and testified at the hearing on behalf of Cox. At the outset, we note that Cox is a certificated competitive local exchange carrier (CLEC) and provides as a common carrier, a variety of facilities-based end-user services in areas of Nebraska.³² Mr. Lafferty described six issue areas that Cox believes define its complaint. First, Cox contends that an SS7 message is an inseparable component of a call.³³ Mr. Lafferty pointed out that

²⁵ See, e.g., Lafferty Testimony, Exhibit 24, 18:1-2; O'Neal Rebuttal, Exhibit 28, 3:14-18; Tr. 116:5-11.

²⁶ See, Florack Testimony, Exhibit 31, 25:21-23.

²⁷ See, Lafferty Testimony, Exhibit 24, 10:10-13; O'Neal Testimony, Exhibit 27, 5:1-6; Florack Testimony, Exhibit 31, 8:12-10:21.

²⁸ See, McIntyre Rebuttal, Exhibit 34, 11:10-12.

²⁹ See, Tr. 382:8 to 383:17; See also O'Neal Testimony, Exhibit 27, 6:20-7:3; Florack Testimony, Exhibit 31, 10:25-11:7.

³⁰ See, Tr. 116:5-7; Tr. 315:10-17; See also Florack Rebuttal, Exhibit 33, 2:6-8.

³¹ Accord, Tr. 335:19 to Tr. 336:2; Florack Rebuttal, Exhibit 33, 22:20-23:6.

³² See, Cox Complaint, Para. 4, Exhibit 22.

³³ Lafferty Rebuttal, Exhibit 25, 11:16-22; Tr. 48:11-15. Mr. Lafferty also filed Direct Testimony in this matter (Ex. 24) on Aug. 30, 2002.

while SS7 is a unique technology, it is a critical function for set up, delivery and take down of calls. Second, Cox argued that Qwest was misapplying the SS7 message charges so as to violate existing regulatory policies by ignoring existing interconnection agreements between the companies.³⁴ Third, Mr. Lafferty contended on behalf of Cox that Illuminet was clearly authorized to act as the agent for Cox for SS7 network services, and discussed a "letter of agency" (LOA) that verifies that fact.³⁵ Fourth, Cox asserts that there is not and has not been a pricing arbitrage opportunity as contended by Qwest due to the "bill and keep" mechanism that exists in the companies' ICA to account for the transport and termination of local traffic.³⁶ Fifth, Cox contends the misapplied SS7 message charges provide a subsidy to Qwest.³⁷ Finally, Cox disagrees with Qwest's allegation in its Answer to the Cox Complaint that the SS7 message charge revisions in Qwest's Access Catalog are revenue neutral in Nebraska.³⁸

32. We further note that ALLTEL Nebraska, Inc. is an incumbent local exchange carrier (ILEC) certificated to provide facilities-based local exchange, extended area service (EAS), enhanced local calling area service (ELCA), intraLATA and interLATA telecommunications services in this state.³⁹ ALLTEL Communications of Nebraska, Inc. is a provider of wireless telecommunications services in this state.⁴⁰ Mr. George O'Neal, Staff Manager, SS7, for ALLTEL, also submitted pre-filed testimony and testified at the hearing.⁴¹ ALLTEL agrees with Cox that voice and SS7 networks must rely upon each other for the completion of messages for end-user customers.⁴² ALLTEL further pointed out that, in almost all cases, the SS7 network is required to transport the call set up or teardown messages between the called and calling party local switches.⁴³ Mr. O'Neal also described how carrier billing systems and the application of compensation mechanisms, such as bill-and-keep, are dependent on the jurisdiction of a call since the

³⁴ Tr. 48:16-20.

³⁵ Tr. 48:21-23.

³⁶ Tr. 48:24-49:3.

³⁷ Tr. 49:4-7.

³⁸ Tr. 49:8-21.

³⁹ Amended Complaint, Paras. 3 and 4, Exhibit 23.

⁴⁰ *Id.*

⁴¹ O'Neal Testimony, Exhibit 27 and O'Neal Rebuttal, Exhibit 28.

⁴² O'Neal Rebuttal, Exhibit 28, 3:7-22; Tr. 115:8 through 116:16.

⁴³ Tr. 115:5-16.

jurisdiction dictates how much compensation is applied.⁴⁴ In fact, Mr. O'Neal stated that Qwest could measure SS7 messages by jurisdiction and call type if it chose to do so,⁴⁵ or it could utilize a percent interstate usage (PIU) factor, and either a percentage local usage (PLU) factor or a percent non-chargeable usage (PNU) factor⁴⁶ to allocate SS7 message charges in proportion to the category of the underlying end-user traffic. ALLTEL also noted that it, too, had designated Illuminet as its agent to establish connectivity with Qwest's SS7 signaling network.⁴⁷

33. The final witness for ALLTEL was Ms. Pamela S. Fuller, Staff Manager, State Government Affairs. As was done by Messrs. Lafferty and O'Neal, Ms. Fuller also submitted pre-filed testimony and testified at the hearing.⁴⁸ ALLTEL argues that existing ICAs continue to apply to wireless traffic within a Major Trading Area (intraMTA) and ILEC extended area service (EAS) and local traffic.⁴⁹ Ms. Fuller described details of the ICA between ALLTEL and Qwest that demonstrated that Qwest and ALLTEL had agreed to include the exchange of SS7 signaling messages within the reciprocal compensation terms and rates of the ICAs.⁵⁰ Ms. Fuller also expressed ALLTEL's view that Qwest's Access Catalog SS7 message rates do not apply to wireless intraMTA traffic⁵¹ and ILEC EAS/ELCA SS7 messages and calls.⁵² Ms. Fuller indicated that the only way Qwest may unbundle SS7 rates, as contemplated by the Federal Communications Commission (FCC), would be to properly measure and then properly bill pursuant to the applicable agreement covering the end-user traffic associated with the SS7 message, which ALLTEL contends Qwest is unwilling to do.⁵³ Finally, ALLTEL noted that it does not actually purchase intraMTA, local or EAS SS7 message signaling from Illuminet, nor does it purchase any call setup from Illuminet. ALLTEL, through its own SS7 network, creates its own call setup

⁴⁴ O'Neal Rebuttal, Exhibit 28, 6:15-7:12; Tr. 117:4-9.

⁴⁵ O'Neal Rebuttal, Exhibit 28, 7:13-22; Tr. 117:10-19.

⁴⁶ Tr. 118:13-20.

⁴⁷ O'Neal Rebuttal, Exhibit 28, 8:4-9:5.

⁴⁸ Fuller Testimony, Exhibit 29 and Fuller Rebuttal, Exhibit 30.

⁴⁹ Fuller Rebuttal, Exhibit 30, 4:19-6:5; Tr. 155:9-156:6.

⁵⁰ *Id.*

⁵¹ IntraMTA CMRS traffic has been deemed by the FCC to be "local" for purposes of applying terminating compensation requirements. See, 47 C.F.R. § 51.701(b)(2).

⁵² Fuller Rebuttal, Exhibit 30, 6:20-7:14.

⁵³ Tr. 159:14-160:6. See also, *Access Charge Reform*, Report and Order, CC Docket No. 96-262, (12 FCC Rcd 15982, 16046(para. 147) 1997).

signaling, and purchases transport of those SS7 messages from Illuminet.⁵⁴

34. Mr. Paul Florack submitted pre-filed testimony and testified on behalf of Illuminet.⁵⁵ Mr. Florack is Vice President for Network Services in Product Management and Development at Illuminet. As indicated by the other Complainant witnesses, Illuminet agrees that without SS7 signaling messages, no end-user traffic would be completed. As such, according to Mr. Florack, the SS7 signaling is an integral and essential part of voice traffic.⁵⁶ Moreover, Illuminet notes that only Illuminet carrier/customers carry end-user traffic and only those customers generate SS7 message signals for which Qwest has been assessing access charges under its Access Catalog.⁵⁷ Illuminet, like Cox and ALLTEL, asserts that Qwest has not properly implemented the Access Catalog because of Qwest's unwillingness to properly measure the type and jurisdiction of SS7 message charges, capabilities that are in fact available, and to provide the detail necessary to verify that billings are correct. Thus, Illuminet requests that the Commission direct Qwest to withdraw its Access Catalog amendment that took effect June 6, 2001 (Exhibit 12).⁵⁸

35. Illuminet also went into significant detail to describe Qwest's recovery of SS7 costs from all services using the SS7 network, in accordance with FCC directives.⁵⁹ Mr. Florack described how the jurisdiction of the SS7 message is relevant because it naturally follows the voice traffic it supports.⁶⁰ Finally, Mr. Florack agreed with Cox and ALLTEL that the LOAs provided by each company to Illuminet authorize Illuminet as their agent for purposes of SS7 message transport. Mr. Florack pointed out that "while Qwest may rely upon that LOA for Qwest's own internal network security purposes, that limited use does not limit the scope of the authority Illuminet has been given as the agent of its carrier/customers."⁶¹

⁵⁴ Fuller Rebuttal, Exhibit 30, 8:16-9:10; Tr. 157:17-158:10.

⁵⁵ Florack Testimony, Exhibits 31 and 32, and Florack Rebuttal, Exhibit 33.

⁵⁶ Florack Rebuttal, Exhibit 34, 2:5-12.

⁵⁷ Id.

⁵⁸ Florack Rebuttal, Exhibit 34, 3:16-4:3.

⁵⁹ Florack Rebuttal, Exhibit 34, 6:5-7:12. See also, *Provision of Access for 800 Service*, Report and Order, CC Docket No. 86-10, 4 FCC Rcd 2824, 2832 (1989) (core costs of SS7 should be borne by all network users).

⁶⁰ Florack Rebuttal, Exhibit 34, 7:18-10:4.

⁶¹ Florack Rebuttal, Exhibit 34, 13:7-14:14.

36. Mr. Scott A. McIntyre, Director of Product and Market Issues for Qwest, also submitted pre-filed testimony and testified at the hearing.⁶² According to Mr. McIntyre, Qwest has merely unbundled the SS7 message price out of the switching cost, lowered the switching rates and created a separate signaling rate.⁶³ Qwest also contends that the Complainants have the choice to purchase signaling through their ICAs, through the Qwest catalog, or through a third-party provider.⁶⁴ In the past, Qwest believes Complainants had a competitive advantage over other carriers who did not use third-party providers.⁶⁵ Now, however, with Qwest's new SS7 message rates in the Access Catalog, Qwest contends costs are more aligned with the cost causer.⁶⁶ Mr. McIntyre asserts that the rate structure is proper because it was modeled after that approved by the FCC and establishes rates for the SS7 network that is separate from the voice network.⁶⁷

37. Qwest also asserts that the ICAs between the companies are irrelevant in this case as Illuminet, not Cox or ALLTEL, is Qwest's customer for SS7 services.⁶⁸ Qwest further asserts that the LOAs discussed by the Complainants were only created to allow Qwest to open point codes in its switches, and that Complainants were attempting to expand the authority granted by the LOAs.⁶⁹

38. The sixth and final witness in the case, Mr. Joseph P. Craig, Director of Technical Regulatory in the Local Network Organization for Qwest, also submitted pre-filed testimony and testified at the hearing.⁷⁰ Through Mr. Craig's testimony, Qwest described how the SS7 network is an out-of-band signaling network, separate from the network that carries voice calls or traffic.⁷¹ Qwest also claimed that the distinction between local and exchange access calls is not applicable to SS7 messages.⁷² Finally, Mr. Craig opined that the Cox and ALLTEL LOAs are only

⁶² McIntyre Rebuttal, Exhibit 34, McIntyre Surrebuttal, Exhibit 36, Erratum Testimony, Exhibit 35.

⁶³ Tr. 301:11-302:1.

⁶⁴ Tr. 303:11-18.

⁶⁵ McIntyre Rebuttal, Exhibit 34, 10:8-12.

⁶⁶ McIntyre Rebuttal, Exhibit 34, 11:14-18.

⁶⁷ McIntyre Rebuttal, Exhibit 34, 6:16-7:5.

⁶⁸ McIntyre Rebuttal, Exhibit 34, 31:5-20.

⁶⁹ McIntyre Rebuttal, Exhibit 34, 32:4-36:7; Tr. 306:1-307:20.

⁷⁰ Craig Rebuttal, Exhibit 40, and Erratum Testimony, Exhibit 41.

⁷¹ Craig Rebuttal, Exhibit 40, 3:3-18; Tr. 366:16-22.

⁷² Craig Rebuttal, Exhibit 40, 9:4-16

valid to open Qwest point codes, not to allow Illuminet to act as either Cox's agent or ALLTEL's agent for purposes of purchasing SS7 signaling services.⁷³ Mr. Craig agrees with Mr. McIntyre that the SS7 network is separate from the voice network, going so far as to state that the SS7 network is "completely separate" from the voice network.⁷⁴

SS7 is an Integral Component of End-user Traffic

39. At the outset, one of the fundamental policy issues for us to resolve is whether, as Qwest contends, the Commission should treat the SS7 messages and the network that carry them independently of the voice traffic.⁷⁵ If we were to agree with this contention, we would also, by necessity and logic, need to conclude that the regulatory treatment of the voice traffic has no relevance to the application of the SS7 message charges at issue in this proceeding. Complainants, however, offer a far different position. Complainants allege that the SS7 message is an integral component of the end-user traffic it supports and, accordingly, the interconnection agreements in place between the carriers of end-user traffic (such as those between Cox and Qwest and those between Qwest and ALLTEL) determine whether and how SS7 message charges should be assessed. We accept the latter conclusion as not only being supported in the record, but also being consistent with common sense and other regulatory decisions.

40. First, although we recognize the attractive simplicity of the "separate" network theory raised by Qwest,⁷⁶ we find that theory sorely lacking in fact and substance. While it is true that the SS7 network includes components different from those used to carry voice traffic, the record is abundantly clear that, where SS7 has been implemented (as in the case), there would be no voice traffic if the SS7 messages at issue were not exchanged between SSPs or if the SS7 network were not operating.⁷⁷ The record also confirms that the SSP that generates the SS7 message is part of the local switch, and the SSP effectively communicates with that switch to establish and

⁷³ Craig Rebuttal, Exhibit 40, 14:13-16:4; Tr.371:20-372:12.

⁷⁴ Craig Rebuttal, Exhibit 40, 3:4.

⁷⁵ See, e.g., Craig Rebuttal, Exhibit 40, 16:9-12; Tr. 315:10-17.

⁷⁶ See, Craig Rebuttal, Exhibit 40, 8:21-22, 9:6-9; Tr. 51:16-18; Tr. 381:10-382:7.

⁷⁷ See, e.g., Fuller Rebuttal, Exhibit 30, 12:12-15; O'Neal Rebuttal, Exhibit 28, at 3:14-18, 5:13-15, 6:7-11; Florack Testimony, Exhibit 31, 12:13-16; Florack Rebuttal, Exhibit 33, 2:6-9; Tr. 116:5-11; Tr. 370:10-16.

release the voice path so that the call can be set up and subsequently completed.⁷⁸ Further, the record reflects that, for purposes of the charges at issue in this proceeding, the SS7 network has no independent purpose but to transport the SS7 messages,⁷⁹ and, again, that those messages must be sent and received by the SSPs (which are at least a part of the local switch owned by the LEC or CMRS provider) in order for the end-user call to be completed. Functionally, therefore, we see no basis for suggesting, as Qwest witness Craig did in his written testimony summary, that the SS7 network is separate from the voice network, let alone "completely separate" from the voice network.⁸⁰ Rather, the record is clear that the voice network must rely upon the SS7 network to initiate the SS7 messages required for any end-user traffic to be completed.

41. Second, we find no rational basis to suggest, as Qwest does,⁸¹ that the jurisdiction of the voice traffic associated with SS7 messages is irrelevant to our inquiry. We find this suggestion to be interesting since it is clearly contradicted by the fact that Qwest "jurisdictionalizes" its SS7 message traffic (albeit not to the level Complainants seek),⁸² and it relied upon its interstate message traffic in establishing the interstate SS7 message rates filed with the FCC.⁸³ Qwest's interstate tariff and Qwest's arguments here also establish that Qwest agrees with the principle that, at least for purposes of separating interstate SS7 messages from intrastate SS7 messages, it is appropriate for regulators and customers to look to the underlying voice or data message.⁸⁴ We note that Qwest's SS7 charges are an unbundling of the rate elements associated with voice traffic - the SS7 rate elements have not been divorced from the traffic, they've simply been unbundled from the local

⁷⁸ See, e.g., O'Neal Testimony, Exhibit 27, 4:17-19, 5:9-6:10; Florack Testimony, Exhibit 31, 7:20-24; Craig Rebuttal, Exhibit 40, 9:20-10:17.

⁷⁹ See, e.g., O'Neal Rebuttal, Exhibit 28, 3:18-21; Florack Testimony, Exhibit 31, 12:3-16; Florack Rebuttal, Exhibit 33, 19:2-10.

⁸⁰ See, Craig Rebuttal, Exhibit 40, 3:4.

⁸¹ See, e.g., McIntyre Rebuttal, Exhibit 34, 29:22-30:2; Craig Rebuttal, Exhibit 40, 12:22-23.

⁸² See, McIntyre Surrebuttal, Exhibit 36, 19:8-10.

⁸³ See, McIntyre Rebuttal, Exhibit 34, 6:17-20; See also Lafferty Testimony, Exhibit 24, 27:8-17; O'Neal Rebuttal, Exhibit 28, 6:22-7:2; Florack Rebuttal, Exhibit 33, 9:14-16.

⁸⁴ We agree with the Complainants that the FCC's decision regarding Qwest's interstate tariff structure does not preempt this Commission's authority to decide the matter pursuant to Nebraska law and the record evidence in this proceeding (See, e.g., Lafferty Testimony, Exhibit 24, 11:21-12:9), and we do not read Qwest's testimony to suggest otherwise.

switching and tandem switching rate elements associated with that traffic. Accordingly, we find no plausible reason (and Qwest has provided none) as to why the jurisdiction of the SS7 messages was proper in the context of the federal tariff filing,⁸⁵ but not relevant in the context of the various intrastate end-user traffic types (such as local and EAS/ELCA) to which the Complainants allege that Qwest is improperly applying the Access Catalog rates. While Qwest may be correct that the SS7 network does not differentiate between the jurisdiction of the SS7 messages that are transported across the SS7 network,⁸⁶ Qwest's position would effectively negate the Commission's duty to take into account the distinct categories of intrastate end-user traffic (and its component parts), even though the determination of the proper category is one of our fundamental considerations in establishing the proper rate design and rate structure to be applied.⁸⁷ Finally, Qwest has not contested the fact that, in some situations, it jurisdictionalizes SS7 messages based on the jurisdiction of the associated voice traffic. For example, pursuant to its Statement of Generally Available Terms and Conditions ("SGAT"), Qwest's compensation arrangement for SS7 messages is driven by the compensation arrangement for the messages' associated traffic.⁸⁸

42. Third, we find persuasive Complainants' position that, if the SS7 network were truly separate and apart from the voice network, there would have been no reason for the FCC to find that its costs should be treated as a "general network upgrade" by Qwest for cost recovery purposes.⁸⁹ In an earlier decision, the FCC addressed the regulatory treatment of SS7 capability that was then beginning to be deployed. The FCC determined that:

SS7 represents a new network infrastructure that will not only support a number of new interstate and state services, but will also increase the efficiency with which LECs provide existing services, basic and non-basic. As such, CCS7 represents a general network upgrade, the core costs of which should be borne by

⁸⁵ Tr. 316:16-317:5.

⁸⁶ See, Craig Rebuttal, Exhibit 40, 9:13-14.

⁸⁷ Accord, O'Neal Rebuttal, Exhibit 28, 4:9-18; Fuller Testimony, Exhibit 29, 5:19-6:2; Florack Rebuttal, Exhibit 33, 7:22-8:5.

⁸⁸ See, Lafferty Rebuttal, Exhibit 25, 12:16-18, 13:1-6 and footnote 5.

⁸⁹ Accord, Lafferty Rebuttal, Exhibit 25, 14:22-26 and 21:8-19; Florack Rebuttal, Exhibit 33, 6:14-7:4.

all network users The costs of CCS7 components that will be used to support other services should be apportioned in accordance with existing rules for other network services.⁹⁰

We need not determine whether the FCC's decision regarding the accounting and cost allocation of SS7 costs is binding on this Commission or on Qwest's intrastate services, but we do agree with the FCC's principle that regulated carriers must allocate their SS7 costs among the services supported by SS7. Given that cost allocation, the normal and expected practice would be that cost recovery should follow cost allocation, with the result that SS7 costs should be recovered from the users of the services supported by SS7.⁹¹ Indeed, Qwest attempts (albeit improperly as discussed below) to justify its unbundling of SS7 charges on this "cost causation" principle.⁹²

43. Finally, we note that the Access Catalog itself exposes the infirmities of Qwest's suggestion that the voice traffic and jurisdiction are irrelevant. As indicated in Illuminet's testimony, Qwest has used the voice traffic as a surrogate for applicability of the SS7 charges at issue where actual measurement by Qwest of the SS7 messages is not available.⁹³ Since Qwest has chosen not to implement actual measurement,⁹⁴ the voice traffic (and the necessity of its jurisdiction) becomes relevant based on Qwest's chosen implementation methodology. As such, we find unpersuasive Qwest's suggestion that Illuminet, as the customer, must be charged for all SS7 messages since it purchased the links and ports through the FCC tariff.⁹⁵ The record is clear that Illuminet carries no voice traffic; its carrier/customers do.⁹⁶ And, as found earlier, it is the voice traffic that requires the SS7 messages to be generated, and those messages are generated by the SSPs owned by the Illuminet carrier/customer and not Illuminet. Accordingly, it would not only be proper from a policy perspective but also based on the record before us, that the implementation of the Access Catalog revisions take into account the various and distinct intrastate end-user traffic

⁹⁰ *Provision of Access for 800 Service*, Report and Order, CC Doc. No. 86-10, 4 FCC Rc'd 2824, 2832 (1989) (internal citations omitted).

⁹¹ Accord, Florack Rebuttal, Exhibit 33, 8:14-19.

⁹² See, McIntyre Rebuttal, Exhibit 34, 6:6-14.

⁹³ See, Florack Rebuttal, Exhibit 33, 9:6-10.

⁹⁴ See, McIntyre Rebuttal, Exhibit 34, 23:16-18.

⁹⁵ See, e.g., *Id.* at 9:1-4, 22:20-22, 31:7-10, 35:16-17 and 38:10-12.

⁹⁶ See, Florack Testimony, Exhibit 31, 7:24-25, 8:22-27.

types when considering whether the SS7 message charges associated with those traffic types are properly chargeable under the Access Catalog.⁹⁷

Proper Construction of the Access Catalog Should Avoid Windfalls to Qwest

44. Two final matters bear discussion. We are mindful of the facts presented by the Complainants with respect to their position that Qwest is receiving a windfall under the Access Catalog, and we are troubled by the casual approach that Qwest apparently believes the Commission should take with respect to Qwest's implementation of the Access Catalog. We agree with Complainants that Qwest's interpretation of its Access Catalog to apply to all SS7 messages is improper since Qwest cannot apply the Access Catalog unilaterally to non-exchange access traffic for which compensation arrangements are included in preexisting agreements. Absent this approach, Qwest would continue to gain a windfall under the SS7 message charges it currently assesses to Illuminet (which then passes through the charges without mark-up to its carrier/customers⁹⁸) because those charges relate to end-user traffic addressed in other agreements in place between Qwest and the Illuminet carrier/customers which included compensation for the entire exchange of traffic between Qwest and those carrier/customers.⁹⁹

45. Similarly, we also cannot ignore, regardless of Qwest's assertions to the contrary, the anti-competitive effects arising from Qwest's implementation of its intrastate SS7 Access Catalog revisions. The testimony of Mr. Lafferty and Mr. O'Neal reveals that Qwest's billings to Cox and ALLTEL represent additional annualized revenues nearly double the total additional revenue that Qwest claims to result from the unbundling of SS7 signaling. The Cox witness, Mr. Lafferty, testified that as a consequence of Qwest's application of its amendment to the Access Catalog to Cox's non-access SS7 messages, Cox has experienced an increase to Cox's net cost of operations of \$90,000 per month or over \$1 million annually arising from the pass-through of Qwest's SS7 message charges by Illuminet.¹⁰⁰ The ALLTEL witness, Mr. O'Neal, testified that the

⁹⁷ Accord, O'Neal Rebuttal, Exhibit 28, 7:3-12.

⁹⁸ See, Florack Testimony, Exhibit 31, 26:13-18.

⁹⁹ See, e.g., Lafferty Testimony, Exhibit 24, 14:1-16:3, 20:2-21:2, and 22:7-24:25; Fuller Testimony, Exhibit 29, 9:1-5 and Exhibit A.

¹⁰⁰ See, e.g., Tr. 63:13-25 and 104:24-105:1.

data contained in Exhibit 10 confirmed Qwest's discovery response that approximately \$1,081,000 was Qwest's calculated amount of the reduction in local and tandem switching revenues and the increase in SS7 revenues due to unbundling.¹⁰¹ Mr. O'Neal further testified that for the past 12 months, ALLTEL alone had received billings (passed through by Illuminet) of \$939,738 for charges by Qwest under the revised Access Catalog, and that while ALLTEL only handles a small portion of the total SS7 messages that would be subject to charges under Qwest's revised Access Catalog, ALLTEL's billing increase equaled nearly 90 percent of the annual revenue increase that Qwest states will result from its unbundling of SS7 charges in Nebraska.¹⁰² Illuminet's witness, Mr. Florack, testified that Illuminet has been billed approximately \$2.9 million by Qwest since the effective date of Qwest's amendment to the Access Catalog pertaining to SS7 signaling which, as noted above, are passed through to its carrier/customers without charge. Additional billings to other carriers for SS7 message charges are unknown.

46. These charges are, in our view, significant and directly arise from Qwest's improper implementation of its intrastate SS7 message rate structure. That implementation, in turn, has the effect of unilaterally increasing the costs of Cox and ALLTEL (which will be recovered through rates they assess to their ratepayers and other carriers) from those costs that Cox and ALLTEL agreed to pay pursuant to their negotiated agreements with Qwest. When viewed in this light, we must conclude that the effect of Qwest's intrastate SS7 message rate structure is to deter competition by an improper increase of the costs to a competitor or at least a shift of Qwest's costs to other carriers, thus providing Qwest an improper competitive advantage vis-à-vis those carriers with which it does compete. In either instance, we will not allow that result to occur.

47. Further, we reject Qwest's contention that this result is somehow permissible because Qwest has properly implemented its intrastate SS7 structure pursuant to applicable FCC directives.¹⁰³ Even though the FCC's directives are not necessarily controlling on our implementation of the intrastate SS7 message structure at issue, Qwest has failed to comply with them. Specifically, the underlying FCC decision upon which Qwest relies, in part, for justifying its intrastate implementation of

¹⁰¹ Tr. 118:21-120:2.

¹⁰² Tr. 120:3-22.

¹⁰³ See, e.g., McIntyre Surrebuttal, Exhibit 36, 5:5-6:12.

the SS7 message structure required Qwest to "acquire the appropriate measuring equipment as needed to implement such a plan,"¹⁰⁴ but only where a carrier has elected to implement that structure.¹⁰⁵ Since it is clear that Qwest elected to make the revisions at issue, the only remaining question is whether the "measuring equipment" has been put in place to "implement" that election. The record is clear that Qwest has not,¹⁰⁶ as is confirmed by the lack of the billing detail required to properly identify (and thus measure) the SS7 messages associated with various intrastate end-user traffic types.¹⁰⁷ Therefore, Qwest cannot rely upon the FCC's SS7 rate unbundling pronouncements to support its efforts to cause this Commission to ignore the effects of the improper implementation of its intrastate SS7 message rate structure.¹⁰⁸

48. ALLTEL and Cox, as common carriers, have challenged Qwest's application of its unbundling of SS7 message signaling charges as set forth in the amendment to Qwest's Access Catalog as improper and unjust. Pursuant to Section 75-119, it is the duty of the Commission to make a determination of such claims and pursuant to Section 75-118.01, the Commission has the duty to determine the scope or meaning of a tariff. The Commission finds that the lack of revenue neutrality in Qwest's unbundling of SS7 signaling warrants a finding that the revisions to Qwest's Access Catalog (Exhibit 12) are not fair, just and reasonable and that such Catalog provisions should be declared

¹⁰⁴ *Access Charge Reform, First Report and Order*, 12 FCC RC'd 15982, 16090 (para. 253) (1997) ("Access Charge Reform Order").

¹⁰⁵ *See, id.* (Para. 252).

¹⁰⁶ *See, McIntyre Rebuttal, Exhibit 34, 23:16-19.*

¹⁰⁷ *See, Florack Testimony, Exhibit 31, 13:26-29 citing to Confidential Exhibit B.*

¹⁰⁸ We also note that Qwest relies, in part on the FCC's decision that permitted Qwest to unbundle its interstate SS7 costs. *See, e.g., McIntyre Rebuttal, Exhibit 34, 6:16-7:8; see also, US West Petition to Establish Part 69 Rate Elements for SS7 Signaling, Order, CCB/CPD 99-37, DA 99-1474, released December 23, 1999 ("Order").* That decision, however, notes Qwest's ability "to assess rate elements on each switched access originating or terminating call attempt . . ." Order at para. 6 (emphasis added). We agree with the Complainants, however, that in the interstate jurisdiction the "calls" are typically interstate toll carried by IXCs, which is confirmed by the FCC's reference to a "switched access . . . call attempt," and the fact that switched access is exchange access. *See, e.g., Lafferty Testimony, Exhibit 24, 6:21-7:1 citing to Access Charge Reform Order, 12 FCC Rc'd at 16042 (para. 138); Florack Rebuttal, Exhibit 33, 11:7-10.* In the intrastate jurisdiction, however, there are more discrete "call types" that must be accounted for in any proper SS7 unbundling efforts. *See, e.g., Florack Testimony, Exhibit 31, 23:9-21.*

null and void. Further, pursuant to the Commission's authority pursuant to Section 75-109(2), the Commission finds that the implementation of Qwest's Access Catalog is inconsistent with the policies of the Telecommunications Act of 1996 because Qwest has implemented its intrastate SS7 message rate structure in a manner that permits Qwest to assess such charges for traffic that is otherwise subject to its ICAs with Cox and with ALLTEL, and does so for end-user traffic that Qwest initiates (a violation of applicable reciprocal compensation rules and policies as noted by Mr. Lafferty).¹⁰⁹

49. Lastly, we are also concerned by Qwest's unilateral efforts to alter the concept of "cost causation."¹¹⁰ As the record reflects, no changes occurred in the exchange of SS7 messages between Cox and Qwest and between ALLTEL and Qwest except for the new rate structure imposed by Qwest's revisions to the Access Catalog.¹¹¹ However, the undeniable fact is that, as a result of these revisions, Qwest is assessing (albeit though Illuminet) charges to Cox and ALLTEL for SS7 messages associated with calls made by another carrier's end-users (such as in the case of originating and terminating pre-subscribed toll calls of an interexchange carrier (IXC) carried by Qwest and Cox or ALLTEL in a 'meet point billed' arrangement) or all calls where Qwest is the initiating carrier. Thus, the "causer" of the SS7 messages in these instances is not ALLTEL or Cox, and therefore, no SS7 message charges should be assessed by Qwest.¹¹² Accordingly, we reject in its entirety Qwest's overly broad construction of cost causation espoused in this proceeding and we specifically reject Qwest's suggestions that the Complainants have taken advantage of some pricing "loophole" or have been subsidized by other carriers.¹¹³ Nothing changed in the cost causation principles in place prior to the unbundling of SS7 message charges by Qwest, and Qwest has shown no rational basis as to why it should be allowed to unilaterally change such principles. This is particularly true where, as here, any

¹⁰⁹ See, Lafferty Rebuttal, Exhibit 25, 6:10-7:18.

¹¹⁰ See, Lafferty Testimony, Exhibit 24, 17:16-19; Lafferty Rebuttal, Exhibit 25, 18:15-19:12.

¹¹¹ Tr. 149:17-21

¹¹² Accord, Lafferty Rebuttal, Exhibit 25, 6:13-16; Florack Rebuttal, Exhibit 33, 4:7-15.

¹¹³ See, e.g., McIntyre Rebuttal, Exhibit 34, iii, 9:9-17. Contrary to Qwest's suggestion, this case is not about "options" regarding the SS7 connectivity (see McIntyre Surrebuttal, Exhibit 36, 8:9-9:4) in that each "option" either requires a carrier to rely upon Qwest for the provision of SS7 network, or requires that carrier to be subject to an intrastate SS7 message rate structure that has not been properly implemented by Qwest.

additional costs shifted to another provider will be reflected in that provider's cost of providing service via its end-user rates. Increasing a competitor's costs of providing service by an improper application of cost causation principles or, as here, an improper construction and application of the Access Catalog is the antithesis of rational public policy.

50. Accordingly, for purposes of our remaining analysis, we agree with the Complainants that our decisions can and should be governed by the simple, common sense principle they have articulated that no carrier should implement a revision in its tariff or pricing catalog such that its inappropriate billing of other carriers results in a revenue windfall to such carrier. This principle is particularly appropriate where the application of such tariff or pricing catalog has the effect of unilaterally altering the compensation arrangements included in negotiated pre-existing agreements. Specifically, we agree with the Complainants that the SS7 message is an integral component of the end-user traffic it supports,¹¹⁴ and the arrangements that govern the compensation of the end-user traffic equally govern the treatment of the SS7 signaling messages associated with that traffic.¹¹⁵ Thus, if SS7 signaling messages are associated with intrastate toll end-user traffic, and intrastate toll is subject to the Access Catalog, the Access Catalog applies. If SS7 signaling messages are associated with intrastate toll end-user traffic and the exchange access associated with such intrastate toll is subject to some arrangement other than the Access Catalog, the terms of that arrangement should apply. Similarly, if SS7 signaling messages are associated with local end-user traffic, CMRS intraMTA traffic, Qwest-originated toll or jointly provided exchange access, and such traffic is subject to an ICA or other contract, the agreement or contract applies to the SS7 signaling messages for such traffic. As applied here, the fact that Cox and ALLTEL have chosen an intermediary to transport SS7 message signals between themselves and Qwest should produce no different result than if Qwest and Cox and/or Qwest and ALLTEL directly connected their own SS7 networks. The cost saving efficiencies that the Illuminet transport provides and its associated benefits to Qwest,¹¹⁶ should not be denied to the rate paying public. This is especially true where, as here, the

¹¹⁴ See, e.g., Lafferty Rebuttal, Exhibit 25, 11:19-22.

¹¹⁵ Accord, Florack Testimony, Exhibit 31, 19:20-20.3.

¹¹⁶ See, Lafferty Testimony, Exhibit 24, 10:10-13; O'Neal Testimony, Exhibit 27, 5:1-6; Florack Testimony, Exhibit 31, 8:12-10:21; McIntyre Rebuttal Testimony, Exhibit 34, 11:10-12; Tr. 382.8-383:17

facts demonstrate that the arrangement between Illuminet and its carrier/customers is well known to Qwest,¹¹⁷ and as discussed below, proper agency authorizations have been provided regarding the point codes to which SS7 message signals are transported. We expect Qwest and all carriers subject to our jurisdiction to encourage network efficiencies, not create roadblocks with no apparent purpose other than to enhance their own revenues and/or disadvantage their competitors.

Illuminet is the Agent of Cox and ALLTEL for SS7 Transport Services

51. As indicated above, our analytical construct requires that we examine the arrangements in place between the carriers for the handling of end-user traffic. Although the application of this construct is made somewhat more difficult because Illuminet offers no end-user services,¹¹⁸ the record is clear that Illuminet's carrier/customers do offer such services. Accordingly, we must address whether, in fact, Illuminet "stands in the shoes" of its carrier/customers for purposes of the SS7 messages that are components of its carrier/customers' end-user and exchange access service offerings, i.e., that Illuminet is the agent for its carrier/customers with respect to the SS7 messages Illuminet transports for them.

52. Under Nebraska law, whether agency exists depends on the facts underlying the relationship of the parties irrespective of words or terminology used by the parties to characterize or describe their relationship. See, e.g., *Kime v. Hobbs*, 252 Neb. 298, 562 N.W.2d 705 (1997). Using this as our guidepost, the record reflects that a LOA provided by Cox and dated July 2, 2001, was sent to Qwest indicating that "Cox Communications is authorizing Illuminet to conduct all negotiations and issue orders for (all services) point codes listed below for all US West LATAs; 001-218-140." (Exhibit 15). The very language of the LOA reveals that Cox made a general grant of agency authority to Illuminet relative to SS7 services in Qwest (formerly US West) LATAs, and that the agency relationship would continue until "rescinded in writing by Cox." Furthermore, as Mr. Lafferty testified for Cox, agency is a

¹¹⁷ See, e.g., Florack Testimony, Exhibit 31, attached Ex. E. We specifically find that, at least as of November 2000, Qwest was on notice of the specific relationship that Illuminet had with its carrier/customers, and that Qwest presumably ignored that relationship and the consequences arising there from when it elected to file its intrastate SS7 message rate structure.

¹¹⁸ Tr. 233:10-13; Tr. 239:13-18.

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common method of transacting business by telephone companies. For example, Cox hires agents to help with collocation, and Qwest allows those agents, who are not Cox employees, access to Cox's collocation cage.¹¹⁹

53. Similarly, a LOA provided by ALLTEL dated April 5, 2001, was sent to US West stating: "ALLTEL is authorizing Illuminet to conduct all negotiations and issue orders for all services for the point codes listed below, for all US West LATAs." (Exhibit 14). This LOA also provided that it "will remain in effect until rescinded in writing by ALLTEL." Mr. O'Neal testified that the ALLTEL LOA "is authorizing Illuminet to conduct all negotiations and to issue an order for all services for the point codes listed below."¹²⁰ Consistent with the Cox LOA, the language used by ALLTEL demonstrates that Illuminet was designated by ALLTEL to act as their agent with regard to SS7 services in Qwest (formerly US West) LATAs.

54. Accordingly, under the test in *Kime*, we find that the LOAs do, in fact, establish Illuminet as the agent of Cox and ALLTEL generally, and, therefore, Illuminet stands in the shoes of Cox and ALLTEL with regard to the SS7 message charges at issue. In addition to this clear grant of agency, our finding is also independently supported by the record evidence that Qwest has been fully aware of the relationship between Illuminet and its carrier/customers (including the issues associated with the instant dispute),¹²¹ and the fact that the concept of "agency" is not a novel idea. For example, the Cox/Qwest ICA, approved by this Commission in Application No. C-1473, mentions the word "agent" 33 times, testament to the fact that Qwest knew Cox would, like many new entrants, use agents to handle many of its needs. Mr. Lafferty's pre-filed testimony discussed this concept in depth, contending that only through third party vendors could a new entrant manage all the tasks required of it as it grows a business while also quoting from two of the 33 provisions in the Qwest/Cox ICA that discuss agency.¹²² Similarly, the ALLTEL ICAs (Exhibits 16 and 17) contain numerous references to agents and agency. Based on the above-quoted LOAs and the evidence in the record, the Commission finds that Illuminet is the agent of Cox and of ALLTEL for SS7 messages at issues here within the Qwest LATAs.

¹¹⁹ Tr. 56:20-57:2.

¹²⁰ Tr. 145:14-17.

¹²¹ Florack Testimony, Exhibit 31, 9:8-15, 13:18-26, and 26:21-25.

¹²² *Id.*, Lafferty Rebuttal, Exhibit 25, 26:11-28:15.

55. In making this finding, we specifically reject Qwest's contention that its use of the LOA somehow limits the specific agency relationship established between Cox and Illuminet and between ALLTEL and Illuminet.¹²³ The record demonstrates facts that specifically identify the scope of and activities encompassed within the agency relationship established between Cox and Illuminet and between ALLTEL and Illuminet.¹²⁴ Similarly, we reject Qwest's inference that, regardless of the LOA, Illuminet would be a "third party" beneficiary of the ICAs that Qwest has with the Illuminet Co-Complainants.¹²⁵ We recognize that under Nebraska case law, a third party beneficiary's rights depend upon, and are measured by, the terms of the contract between the promisor and promisee, see, *Marten v. Staab*, 249 Neb. 299, 304, 543 N.W.2d 436 (1996), and the ICAs have provisions stating that there shall be no third party beneficiaries to the ICAs. However, just as *Marten* recognizes the distinction between agency and third party beneficiaries in the context of the facts in that case, see *id.*, so also in the instant matters, the LOAs constitute Illuminet as the agent for Cox and ALLTEL, respectively, and Illuminet's rights flow from the agency status and not from third party beneficiary status. Moreover, Qwest has provided no facts that would establish that Illuminet is seeking a benefit under the ICAs in question. Rather, the charges at issue are flowed through to Cox and ALLTEL without mark-up, as the record demonstrates. Accordingly, we specifically reject Qwest's theory that third party beneficiary rights are at issue in this proceeding.

56. We also reject Qwest's suggestion that the concept of "agency" as established between Cox and Illuminet and between ALLTEL and Illuminet is inconsistent with the Communications Act of 1934, as amended. Far from violating such Act, the FCC has embraced the very basis for its application established here. Provided that an agent acts in a manner consistent with the terms and conditions established in the underlying interconnection agreement between its carrier principal and a LEC, the FCC has found that:

[W]hen a CLEC or an IXC (having entered an interconnection agreement with the relevant LEC) designates a DA provider to act as their agent, that competing DA

¹²³ See, e.g., McIntyre Rebuttal, Exhibit 34, 32:19-21.

¹²⁴ See, e.g., Florack Testimony, Exhibit 31, 8:12-10:11.

¹²⁵ See, e.g., McIntyre Surrebuttal, Exhibit 36, 16:9-17:12.

provider is entitled to nondiscriminatory access to the providing LECs' local DA database. Naturally, the DA provider's database access will be consistent with the terms of the relevant interconnection agreement and with the terms of the DA providers' separate agreements with its carrier principal.¹²⁶

57. While the above-quoted decision does not directly address the facts and circumstances presented in the instant complaints (which is acknowledged by Illuminet¹²⁷), the FCC's decision nonetheless recognizes that the Communications Act of 1934 supports the same policies that the record demonstrates are present herein. For example, the FCC made clear that "inter-exchange carriers and competing LECs may not have the economies of scale to construct and maintain directory assistance platforms of their own,"¹²⁸ and that "the presence of such DA providers allows many carriers to offer a competitive directory assistance product without being forced either to go to the substantial expense of maintaining their own database or to purchase the service from the incumbent LECs."¹²⁹ These same FCC-recognized concepts are equally applicable herein.

58. The record reflects that Illuminet provides economies of scale and scope to its Co-Complainants,¹³⁰ which is at least acknowledged by Qwest.¹³¹ Likewise, and as is the case with CLECs and IXCs *vis-à-vis* the provision of directory assistance, Illuminet's carrier/customers utilize Illuminet because of the expense and effort involved in acquiring and deploying all of the components required to provide connectivity to the SS7 networks. It is likewise clear that Qwest is the dominant provider of local exchange service and the associated SS7 signaling.

59. Finally, we reject Qwest's assertion that it has "no direct relationship" with Cox and with ALLTEL regarding SS7.¹³² The interconnection agreements between Qwest and Cox and between Qwest and ALLTEL require that SS7 connectivity be implemented,

¹²⁶ Provision of Directory Listing Information, 16 FCC Rc'd 2736, 2748 (para. 27) (2001).

¹²⁷ See, Florack Rebuttal, Exhibit 33, 15:13-14.

¹²⁸ 16 FCC Rc'd. at 2748 (para. 26) (footnote omitted).

¹²⁹ *Id.* (para. 27).

¹³⁰ See, Lafferty Testimony, Exhibit 24, 10:10-13; O'Neal Testimony, Exhibit 27, 5:1-6; Florack Testimony, Exhibit 31, 8:12-10:21.

¹³¹ See, McIntyre Rebuttal, Exhibit 34, 11:10-12.

¹³² *Id.* at 35:19.

and the LOAs establish that Cox and ALLTEL have each separately designated Illuminet as their agent for this connectivity with Qwest. As confirmed by the fact that call set-up and teardown is being accomplished, there has been no allegation that the actions of Illuminet on behalf of either Cox or ALLTEL are inconsistent with the terms and conditions required for their respective SS7 connectivity with Qwest.

60. Accordingly, based on the entire record before us, we are confident that our decision regarding the existence and application of the agency relationship between Illuminet and Cox and between Illuminet and ALLTEL complies with the proper legal mandates and is otherwise consistent with the underlying policies of the Communications Act of 1934 as interpreted by the FCC.

The ICAs at Issue Do Not Permit Separate SS7 Message Charges to be Assessed By Qwest

61. Having found that Illuminet is acting as the agent for its respective Co-Complainants, we next turn to whether the SS7 message charges being assessed that relate to the various intrastate voice traffic types are proper under the two ICAs before us. Both Cox and ALLTEL provided their understanding of whether SS7 message charges are proper under their respective ICAs for such traffic types.¹³³ We note, however, that each of the Complainants agree that only the SS7 message charges assessed by Qwest for terminating both intraLATA toll originated by an end user pre-subscribed to Cox and that originated by an end user pre-subscribed to ALLTEL are proper.¹³⁴ Therefore, we need not address this type of end-user traffic.

62. Cox and ALLTEL maintain that the terms of their respective ICAs with Qwest include SS7 signaling as a part of the services that the parties agreed to provide reciprocally to one another.¹³⁵ A determination of the validity of this position turns on certain key provisions of the ICAs. In the Cox/Qwest ICA (Exhibit 26), those key provisions are section 6.7.4, which states that where available, all interconnection trunks will be

¹³³ See, Lafferty Rebuttal, Exhibit 25, 4:4-15, 5:13-18, 6:21-7:3; Fuller Testimony, Exhibit 29, 5:1-6:6, 7:4-8:12.

¹³⁴ See, Lafferty Testimony, Exhibit 24, 14:1-5; Fuller Testimony, Exhibit 29, 10:8-10; Florack Testimony, Exhibit 31, 25:4-7.

¹³⁵ See, e.g., Tr. 47:21-25 and 155:9-19.

equipped with SS7 capabilities,¹³⁶ Section 5.13, which discusses Meet Point Billing (MPB)¹³⁷, and Section 5.5.1.2, which mandates a "Bill-and-Keep" arrangement for the termination of local traffic.¹³⁸ Cox has testified that no attempt has been made by Qwest to amend the terms of the Cox/Qwest ICA in order to change the compensation arrangement for SS7 messages.¹³⁹ In the ALLTEL/Qwest Reciprocal Compensation Agreement for Extended Area Service (Exhibit 17), those key provisions are Section 4.2 that provides that the parties will use SS7 signaling in the interconnection of their networks,¹⁴⁰ and Section 3.1 that discusses reciprocal compensation for transport and termination of EAS traffic.¹⁴¹ In the ALLTEL/Qwest Wireless ICA (Exhibit 16), those key provisions are Article V.G.5 that provides that the parties will provide common channel signaling to one another (defined in Article III.L as SS7 signaling protocol),¹⁴² and Article IV.A.1 that discusses reciprocal compensation for local traffic exchanged between the parties.¹⁴³ ALLTEL has established

¹³⁶ Section 6.7.4 states: "The parties will provide Common Channel Signaling (CCS) to one another, where available, in conjunction with all Local/EAS Trunk Circuits. All CCS signaling parameters will be provided including calling party number (CPN), originating line information (OLI), calling party category, charge number, etc. All privacy indicators will be honored." CCS is another term for SS7 signaling.

¹³⁷ Meet Point Billing (MPB) is a revenue-sharing agreement where Cox and Qwest have agreed to jointly provide access service to IXCs under separate access tariffs.

¹³⁸ Section 5.5.1.2 states: "If the exchange of local/EAS traffic between the Parties is within +/- 5% of the balance, the Parties agree that their respective call terminating charges will offset one another and no compensation will be paid."

¹³⁹ See, Lafferty Rebuttal, Exhibit 25, 4:22-23.

¹⁴⁰ Section 4.2 states: "To the extent available, the parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in FR 905 Bellcore Standards including ISDN user part ("ISUP") for trunk signaling and transaction capabilities application part ("TCAP") for common channel signaling based features in the interconnection of their networks."

¹⁴¹ Exhibit 1 to the ALLTEL/Qwest ICA provides the rates for this reciprocal compensation, and Exhibit 2 to the ALLTEL/Qwest ICA provides the exchanges subject to the reciprocal compensation arrangement.

¹⁴² Article V.G.5 states: "The Parties will provide Common Channel Signaling (CCS) to one another, where available, in conjunction with all Local/EAS Trunk Circuits. All CCS signaling parameters will be provided including calling party number (CPN), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored."

¹⁴³ Article IV.A.1 states in pertinent part: "Reciprocal traffic exchange addresses the exchange of traffic between Carrier subscribers and USWC end users. If such traffic is local, the provisions of this Agreement shall

that neither ALLTEL nor Qwest have amended the terms of the ALLTEL/Qwest ICAs in order to alter the compensation for SS7 messages.¹⁴⁴ It is fundamental that these ICAs are not subject to unilateral amendment by only one party. Thus the compensation terms of each ICA remain in effect.

63. Based on our review of the record and the ICAs at issue, the conclusion must be made that recovery of the costs of the SS7 message charges are included within the reciprocal compensation rates or bill-and-keep arrangements included in the ICAs. Consistent with our finding that the SS7 message is an integral component of the end-user traffic, the ICAs reflect no separate charges for SS7 messages associated with the treatment of the end-user traffic types addressed in the ICAs. Any other conclusion would allow a party to unilaterally alter the terms and conditions of an ICA, which we will not allow a party to do. Since Qwest has purportedly unbundled its SS7 rate in the SGAT, and such separate rates have not been included in the ICAs, we further find that it is more plausible that the compensation arrangements for SS7 messages were included in the reciprocal compensation rates or bill and keep construct. This latter finding is further supported by our expectation that carriers negotiate contracts in an effort to recover their costs and the fact that Qwest has not sought to renegotiate the ICAs. If however, Qwest neglected to account for these SS7 costs when it negotiated the ICAs, it is not free to simply impose these costs by unilateral changes in its Access Catalog, but rather, must follow the existing procedures and schedules to obtain revision of the ICAs.

Grant of Relief to the Complainants

64. Based on the record before this Commission, we find that a grant of the relief requested in the Complaints is necessary to ensure that the Access Catalog is applied in a fair and reasonable manner. We find this action is not only consistent with applicable state law and the underlying policies established therein, but also the Act and prudent public policy. Accordingly, for the specific reasons stated herein and the specific opinions and findings of facts made herein, we grant the Complainants the relief they seek and direct Qwest to take such action necessary to implement the following three directives.

apply. Reciprocal traffic exchange covered by this Agreement is for Wireless interconnection for CMRS carriers only in association with CMRS services.

¹⁴⁴ See Tr. 155:21-156:1; Tr. 208:23- 209:4.

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65. Within five business days of the entry of this order, the Commission directs Qwest to withdraw the Access Catalog revisions that are the subject to these Complaints and re-institute the SS7 rates, terms and conditions that had been in effect prior to June 2001 (including, should Qwest so wish, filing revised intrastate switched access rates), and not to re-file any "unbundled" SS7 rate structure within the Access Catalog until it can comply with the third directive below. We make clear that we do not expect Qwest to alter any SS7 facility charges (the links and port charges) since those charges are not the subject of the Complaints. We specifically note that any efforts by Qwest to modify such charges would call into question Qwest's effort to properly implement the directives of this order.

66. We direct that within 10 days of the issuance of this order, Qwest refund or credit all SS7 message charges and associated late charges or penalties, if any, that have been assessed under the June 6, 2001, Access Catalog revisions to Illuminet, both on the disputed non-access traffic of its Co-Complainants, Cox and ALLTEL, and on similar non-access traffic of Illuminet's other Nebraska carrier/customers. Subject to the Complainants' discretion, this refund may take the form of either a direct payment from Qwest or credits to be applied in a manner determined by the Complainants.

67. Finally, we direct Qwest not to file any further Access Catalog SS7 rate structure revisions that attempt to implement separate facilities and SS7 message charges without a substantial demonstration to this Commission that Qwest can properly segregate, identify and properly bill, and refrain from improperly billing, the SS7 message charges associated with the distinct types of intrastate end-user traffic its network currently carries (i.e., local, EAS/ELCA, intraMTA CMRS, Qwest-originated toll and Qwest-terminated toll), and jointly-provided exchange access (that service required for third-party IXCs to originate and terminate their respective end-user intrastate toll traffic via multiple LECs). This demonstration must be made prior to any effort to implement such structure within the Access Catalog, and must include, at a minimum, a demonstration that the implementation of such structure has been coordinated with the Complainants in this proceeding. The Commission finds that Qwest may fulfill this directive either through direct measurement or the adoption of one or more factors within Qwest's Access Catalog, the latter of which would exclude the SS7

messages related to intrastate traffic for which the Access Catalog does not apply (i.e., local, EAS, ELCA, intraMTA CMRS, Qwest-originated toll and jointly-provided exchange access). We also direct that Qwest apply its chosen methodology in a manner that Qwest's billing properly disaggregates and segregates those messages that are not subject to the charges included within the Access Catalog. Should any issues regarding proper implementation of such unbundled SS7 rate structure remain, Qwest shall provide a list of those issues and shall address efforts it has taken to resolve those concerns. With respect to this specific directive, we find that coordination among the parties to these Complaints will assist the Commission in determining good faith compliance by Qwest as well as avoid any unnecessary expenditure of resources by the Commission and the parties.

68. For the reasons stated herein, we find that each of these three directives is not only required to ensure a fair and reasonable application of the Access Catalog by Qwest, but is necessary to ensure that the public interest associated with competitive end-user service provisioning within the state of Nebraska is served.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the foregoing Opinion and Findings are hereby, adopted.

MADE AND ENTERED in Lincoln, Nebraska on this 17th day of December, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Howard Johnson

Gerald L. Ugg

Frank E. Landis

//s//Anne C. Boyle
//s//Frank E. Landis

Anne Boyle
Chair

ATTEST:

Andrew Pollack
Executive Director

ATTACHMENT B

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Cox Nebraska Telcom, LLC) Formal Complaint
and Illuminet) No. FC-1296
Complainants,)
)
v.)
)
Qwest Communications, Inc.)
Respondent.)
)
ALLTEL Nebraska, Inc., ALLTEL) Formal Complaint
Communications of Nebraska,) No. FC-1297
Inc. and Illuminet, Inc.,)
)
Complainants,) Motions Denied
v.)
)
Qwest Corporation,)
Respondent.) Entered: January 28, 2003

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BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

On December 17, 2002, this Commission entered its Order Granting Relief in the above-captioned matters. Said order was the result of a joint hearing held before this Commission on October 22 and 23, 2002.

On December 27, 2002, Qwest Corporation filed a Motion To Reconsider, Request for Oral Argument and Motion To Stay Order Pending Consideration of Order. The Reply of Complainants to Qwest Corporation's Motion To Reconsider, Request for Oral Argument and Motion To Stay Order Pending Consideration of Order was filed by Complainants Cox Nebraska Telecom, LLC; ALLTEL Nebraska, Inc.; Alltel Communications of Nebraska, Inc.; and Illuminet on January 13, 2003. Also, on January 13, 2003, Qwest Corporation filed its Supplement to Motion to Reconsider, Request for Oral Argument and Motion to Stay Order Pending Consideration of Order.

As part of its Motion filed December 27, 2002, Qwest requested an additional 20 days to withdraw its Catalog filing as so ordered by the Commission. As the Complainants indicated by letter dated January 2, 2003, that they did not oppose Qwest's request, the Commission granted the 20-day extension.

The Commission scheduled oral arguments to address the remaining issues set forth in Qwest's Motions on January 15, 2003. Oral arguments were presented by Thomas Snyder for Qwest and by Paul Schudel for the Complainants.

In consideration of Qwest's Motions, the Complainants Reply and the January 14, 2003, oral arguments, the Commission is of the opinion and finds that Qwest's Motions should be denied.

The Commission is not persuaded by Qwest's Motion to Reconsider in light of the fact that nothing has changed since this matter was originally before the Commission for determination. Furthermore, the Commission believes that its original findings in this matter are appropriate and, therefore, the Motion to Reconsider should be, and is hereby, denied.

In regards to the Motion for Stay, such Motion is now moot in light of the fact that the Commission is denying Qwest's Motion for Reconsideration. However, the Commission notes that it will consider its orders effective until such time that the Commission or a court of competent jurisdiction specifically stays them. As such, the Commission directs Qwest to immediately comply with the terms of the Commission's original order in this matter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Qwest's Motion to Reconsider is hereby, denied.

IT IS FURTHER ORDERED that the Commission's original order in this matter is not stayed and that Qwest shall immediately comply with the directives of the Commission as contained therein.

MADE AND ENTERED in Lincoln, Nebraska on this 28th day of January, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

James E. Johnson
Frank E. Landis

//s// Anne C. Boyle
//s// Frank E. Landis

Anne Boyle
Chair

ATTEST:

And J Pollack
Executive Director

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1 Article Addressed to

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 Bismarck ND
 58501

2 Article Number
(Transfer from service label)

7001 1940 005 3425 8506

COMPLETE THIS SECTION ON DELIVERY

A Signature

X *[Signature]*

- Agent
- Addressee

B Received by (Printed Name)

[Signature]

C Date of Delivery

3303

D Is delivery address different from item 1? Yes
If YES, enter delivery address below No

3 Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C O D

4 Restricted Delivery? (Extra Fee)

Yes