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May 13, 2009

RECEIVED

MAY 13 2009

PUBLIC SERVICE COMMISSION

Darrell Nitschke
Public Service Commission
600 E Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Re: Polar Communications Mutual Aid Corp. v. Qwest Corporation and Information Technology Department, and agency of the State of North Dakota;
Civil No. PU-09-111

Dear Mr. Nitschke:

Enclosed are the original and seven copies of Respondent ITD's Answer and an Affidavit of Service by Mail in the above-referenced matter. These documents are also being provided to you by e-mail today.

Thank you.

Sincerely,

Douglas A. Bahr
Solicitor General

jjt

Enclosures

cc: Steven E. Noack (w/encs.)
Kari Reichert (w/encs.)
Jason D. Topp (w/encs.)

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BEFORE THE PUBLIC SERVICE COMMISSION
OF NORTH DAKOTA

Polar Communications Mutual Aid Corp.,)	RESPONDENT ITD'S ANSWER
Complainant,)	
v.)	Civil No. PU-09-111
Qwest Corporation and Information Technology Department, and agency of the State of North Dakota,)	
)	
)	
Respondents.)	

Respondent Information Technology Department (ITD) answers Complainant's Complaint as follows:

1. ITD denies each and every allegation of the Complaint unless expressly admitted or qualified.
2. ITD admits paragraphs 1, 2, and 3.
3. ITD denies paragraphs 17, 18, 19, 20, 25, 26, and 27.
4. With regard to paragraphs 5, 6, 7, 10, 11, 12, 13, 14, and 22, ITD lacks sufficient knowledge and information to admit or deny the allegations and, therefore, denies those allegations.
5. ITD admits the first sentence in paragraph 4. ITD lacks sufficient knowledge and information to admit or deny the second sentence in paragraph 4 and, therefore, denies the allegations in that sentence.
6. With regard to paragraph 8, ITD agrees with the basic explanation provided in the paragraph.
7. With regard to paragraph 9, ITD understands Qwest and Complainant have entered written EAS agreements for the Qwest Grafton Exchange and the Complainant Exchange Areas. ITD lacks sufficient knowledge and information to admit or deny the remaining allegations in paragraph 9 and, therefore, denies the allegations.

8. With regard to paragraph 15, ITD admits the State of North Dakota leases a variety of circuits (i.e., wireless, broadband, cable, DSL, etc.) providing connectivity with most entities eligible to participate on the state network (eligible entities). See N.D.C.C. ch. 54-59. ITD further admits the circuits allow for voice or data communication services by and among eligible entities without the use of the public switch telephone network. ITD further admits this point-to-point connectivity network includes eligible entities in the Qwest Grafton Exchange.

9. With regard to paragraph 16, ITD agrees with the basic explanation provided in the paragraph.

10. With regard to paragraph 21, ITD admits Complainant is not a party to the contract between ITD and Qwest. ITD denies the remaining allegations in paragraph 21.

11. With regard to paragraph 23, ITD admits Complainant sent letters to ITD dated March 22, 2008 and April 30, 2008. The letters speak for themselves.

12. With regard to paragraph 24, ITD admits ITD responded to Complainant's April 30, 2008 letter by letter dated June 4, 2008. ITD's June 4, 2008 letter speaks for itself.

13. ITD affirmatively alleges the Complaint fails to state a claim.

14. ITD affirmatively alleges Complainant is not entitled to the requested relief.

Respondent Information Technology Department respectfully requests the Public Service Commission of North Dakota deny Complainant's requested relief, dismiss the Complaint with prejudice, and grant the Information Technology Department any other lawful relief that is just and reasonable.

Dated this 13th day of May, 2009.

State of North Dakota
Wayne Stenehjem
Attorney General

By: 

Douglas A. Bahr
Solicitor General
State Bar ID No. 04940
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Attorneys for Information Technology
Department.

BEFORE THE PUBLIC SERVICE COMMISSION
OF NORTH DAKOTA

Polar Communications Mutual Aid Corp.,
Complainant,
v.
Qwest Corporation and Information Technology
Department, and agency of the State of
North Dakota,
Respondents.

**AFFIDAVIT OF SERVICE
BY MAIL**

Civil No. PU-09-111

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH) ss.

Donna J. Connor states under oath as follows:

1. I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct.


2. I am of legal age and on the 13th day of May, 2009, I served the attached **RESPONDENT ITD'S ANSWER**, upon Steven E. Noack, Kari Reichert, and Jason D. Topp, by placing a true and correct copy thereof in an envelope addressed as follows:

Steven E. Noack
Attorney at Law
218 NP Avenue
PO Box 1389
Fargo, ND 58107-1389

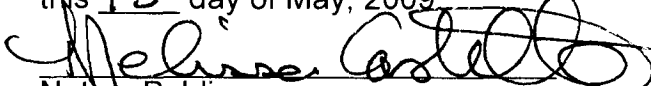
Kari Reichert
Attorney at Law
218 NP Avenue
PO Box 1389
Fargo, ND 58107-1389

Jason D. Topp
Qwest Corporation
200 South Fifth Street, Room 2200
Minneapolis, MN 55402

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota.


Donna J. Connor

Subscribed and sworn to before me
this 13th day of May, 2009


Notary Public

MELISSA CASTILLO
Notary Public
State of North Dakota
My Commission Expires Oct. 15, 2013