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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Complaint of
BEAVER COUNTY, et al.,

Complainants,

-VS-

QWEST CORPORATION fka U S WEST
COMMUNICATIONS, INC. fka MOUNTAIN STATES TELEPHONE
& TELEGRAPH SERVICES, INC.,

Respondent.

**AFFIDAVIT OF
ECKHARDT ARTHUR PRAWITT**

Docket No. 01-049-75

STATE OF UTAH)
 : ss.
County of Salt Lake)

Eckhardt Arthur Prawitt, being first duly sworn upon his oath, deposes and states as follows:

1. I am a resident of Salt Lake County, Utah, am over the age of 18 years, am competent to testify herein and, if called as a witness, would testify as set forth below.
2. I attended the University of Utah and took various business and accounting courses at the College of Business, until I graduated in 1973, with a B.S. degree. Since my graduation I have taken various post-graduate classes and seminars emphasizing the valuation of property.

3. Following my graduation, I obtained employment with the Utah State Tax Commission, in the Auditing Division, which position I held until 1978. In that position, I was responsible for auditing local, multi-state and international entities for income, sales, payroll and special taxes. I prepared detailed audit reports and negotiated audit deficiency settlements.

4. When I left the Utah State Tax Commission in 1978, I obtained employment as the Chief Financial Officer/Comptroller of Vredenburg, Inc., a manufacturing company in Salt Lake County, Utah. In that position, I was responsible for all aspects of financial management for the company, including the preparation of financial statements, operating reports and tax returns. I was also responsible for making investments on behalf of the company, for risk management and for creditor relations. I also served as the administrator of the company's qualified retirement plan.

5. In 1984, I accepted a position with the Utah State Tax Commission, in the Property Tax Division, as a research/valuation analyst. In this position, I was responsible to perform financial valuations as assigned, and to conduct research and investigation relating to valuations. In addition, I was assigned the responsibility to design and code computer software for use in valuation analysis.

6. I received a promotion in 1986 to the position of valuation manager of the Property Tax Division. In that position, I performed and supervised annual financial valuations of multi-state utility and transportation companies, including, without limitation, telecommunications companies, with total values in excess of \$90 billion annually. I initiated and managed the auditing program at the Property Tax Division, part of which consisted of selective audits for errors and other improprieties in financial reports, and participated in a variety of studies, including without limitation of such companies' annual cost of capital. I also researched and developed new and more accurate valuation methodologies. I was required as part of my job to testify as an expert witness on behalf of the Property Tax Division concerning the annual assessments made by the Division. I continued in my role as designer and developer of computer programs and automated systems for special applications.

7. In 1992, I left the Utah State Tax Commission and accepted a position with the Utah Association of Counties, as a valuation analyst. In that position, I have acted as both a forensic expert and consultant. I analyze the annual assessments of the Property Tax Division to determine whether those assessments comport with the requirements of fair market value. I also analyze taxpayer contentions and expert testimony concerning the valuation of their property. I prepare independent appraisals of taxpayer property. In all of these functions, I analyze financial information reported by the taxpayers and, when called for, investigate the accuracy and veracity of such statements. I provide forensic analysis and testify before the Utah State Tax Commission and in state or federal court proceedings when called upon to do so. I continue in such employment at present.

8. Based on my knowledge, skill, experience, training and education, I am an expert in general accountancy, financial and tax auditing, computer programming, valuation of property and financial assets, including financial valuation of large corporations, reviewing, interpreting and analyzing their financial records, and identifying errors and improprieties in their financial reporting.

9. I am supplying my testimony in this proceeding as a forensic financial reporting and accounting expert, based on my review and analysis of U.S. West Communications, Inc. and its parent, U.S. West, Inc.'s public financial reports, the information provided by the Division of Public Utilities and Qwest Corporation in discovery and at technical conferences herein, and on other documents located in the public record. In that capacity and based on my own knowledge and experience and my analysis of the documents I have reviewed, I have formed certain opinions. The documents I reviewed and analyzed as part of the grounds for my opinions are of a kind and nature as are ordinarily and reasonably relied on by regulators and other experts in the accounting, financial reporting, auditing and financial valuation fields to form opinions and draw inferences and conclusions.

10. Qwest's answer to the amended complaint herein admits that, "In each of the nine years from 1988 through 1996, Qwest appealed its centrally-assessed property tax assessments to the Utah State Tax

Commission, claiming that its valuation was excessive, thus resulting in an over-assessment of property taxes.” Qwest’s Answer To Amended Complaint, dated August 9, 2002, at 2 [hereinafter “Answer”]. “In October 1998, the Tax Commission issued a supplemental order, pursuant to stipulation between the Property Tax Division, the Counties and Qwest, resolving these individual appeals on a consolidated basis. The settlement required the Counties to refund \$16.9 million of property tax overpayments and interest to Qwest.” *Id.*

11. In the course of forming inferences and formulating my opinions, I have specifically reviewed various federal regulations, Accounting Principles Board Opinions (“APB Opinions”), 10Ks and 10Qs filed by Qwest, Annual Reports from Qwest filed with the Public Service Commission of Utah, discovery obtained in these proceedings and in technical conferences herein from Qwest and the Division of Public Utilities, filings with the Utah State Tax Commission and the Public Service Commission of Utah, as well as the Third District Court in and for Salt Lake County, Utah and the Utah Supreme Court, analyzed their pertinence to the formation of my opinions and formed opinions based thereon and applying my full background of experience, education, skill and training.

12. I took specific note that Qwest debited its cash account, no.1130, by \$16,899,000.00, representing the property tax refund. Such debit increases the asset value of that account.

13. Qwest credited its operating tax expense account, no. 7240.19, by \$11,479,398.00. This credit to operating tax expense results in a proportional increase in net income, which is available for distribution to shareholders.

14. Qwest credited its non-operating income account, no. 7320.90, by \$5,420,422.00. This credit to non-operating income results in a proportional increase in net income, which is available for distribution to shareholders. In addition, this credit appears, in accounting parlance, “below the line,” meaning that it is not an operational item that goes into rates of return for regulatory purposes. It therefore avoids the regulatory books and goes straight to the shareholders.

15. During the regulatory years 1988 to 1996, U.S. West Communications, Inc. over-earned, in the aggregate, by 3.86 % in its return on rate base and 12.51 % in its return on equity. That means that U.S. West Communications, in the aggregate for those years, had recovered all of its expenses, including all of the property taxes that it had in fact paid, including the full \$16.9 million at issue, from its ratepayers, by virtue of the rates that the Public Service Commission of Utah allowed Qwest to charge, long before it obtained such refund.

16. I have specifically reviewed Federal Communications Commission regulation 47 C.F.R. § 32.7600(a), concerning the accounting definition for regulatory purposes of “extraordinary item.” I have also specifically reviewed APB Opinion Nos. 9 and 30 which pertain to “extraordinary” events. Based on my experience, education, skill, training and applicable generally accepted accounting standards, it is my opinion, from an accounting standpoint, that the \$16.9 million property tax refund, regardless of how Qwest booked it, such a decrease in property tax expense qualifies as an “unforeseeable and extraordinary event.”

17. Finally, I have considered the fact that Qwest has appealed each year in Utah and, as admitted by Qwest in its Motion For Protective Order On Notice of Rule 30(b)(6) Deposition, at 8, that “while [Qwest] appeals in other states less often” it still does so “on a regular basis.” Based on my auditing experience, this concession, together with the apparent use of property tax appeals as a mechanism in this case to funnel millions of dollars to shareholder return, almost one third (1/3) of which is “below the line,” serious red flags are raised concerning U.S. West Communications Inc., now Qwest’s, financial accounting practices and its actual motivation to assert property tax appeals for the purpose of driving revenues outside of the regulatory context and to increase the bottom line to shareholders, at the expense of ratepayers. Such a motivation would generally lead to higher stock prices and support large bonuses to Qwest’s middle and upper management. I have also reviewed the proceedings in the Matter of the Investigation into the Reasonableness of the Rates and Charges of the Mountain States Telephone and Telegraph Company, Docket No. 88-049-18. I have also reviewed matters of public record as to governmental investigations of

financial fraud by former U.S. West Communications officers. The types of financial reporting exposed in those investigations fits generally into a single form of modus operandi, designed to enhance revenue sources for the awarding and payment of compensation to corporate officers. It is therefore my opinion that the financial reporting issues that I identify as red flags in this property tax refund scenario are, to a reasonable certainty, the result of utility misconduct.

DATED this _____ day of December, 2004.

ECKHARDT ARTHUR PRAWITT

SUBSCRIBED AND SWORN TO before me this _____ day of December, 2004.

Notary Public
Residing at Salt Lake County, Utah

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing Affidavit of Eckhardt Arthur Prawitt was served via e-mail transmission, this _____ day of December, 2004, to the following:

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