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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation into Qwest Wire Center Data	Docket No. 06-049-40  JOINT CLEC MOTION TO STRIKE PORTIONS OF QWEST SURREBUTTAL TESTIMONY AND EXHIBITS
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Covad Communications Company, Eschelon Telecom of Utah, Inc., Integra Telecom of Utah, Inc., McLeodUSA Telecommunications Services, Inc., and XO Communications Services, Inc. (collectively “Joint CLECs”) hereby move the Commission for an order striking portions of the surrebuttal testimony and exhibits filed by Qwest Corporation (“Qwest”) on June 5, 2006, specifically the Surrebuttal Testimony of David L. Teitzel at page 9, line 158 through page 10, line 2, and Highly Confidential Exhibit DLT-2. Qwest failed to provide this information either in response to the Joint CLECs’ data requests for Qwest line counts and supporting documentation or in any prior testimony or exhibits, thus impermissibly depriving the Joint CLECs of the opportunity to evaluate or effectively respond to Qwest’s latest business line count calculations.

## ARGUMENT

On March 24, 2006, Qwest filed its direct testimony. Included in that testimony was the Direct Testimony of David L. Teitzel and Highly Confidential Exhibit DLT-1. That exhibit included Qwest's calculations of the number of business lines served out of the Salt Lake Main central office, including Qwest's calculations of the switched business lines it serves as derived from its ARMIS 43-08 report to the FCC. Those calculations did not include any adjustment for services provided out of the Salt Lake Main wire center but with digital business channels allegedly associated with service in a different wire center.

On March 31, 2006, the Joint CLECs propounded their first set of data requests to Qwest. Request No. 30 asked for Qwest's business line counts for the Salt Lake Main wire center, and subsection (d) specifically requested, "If the methodology used to determine [Qwest's business switched access lines] differ from the methodology used to determine switched business line counts for ARMIS 43-08, describe the differences and any data that would allow the Commission or participants to reconcile this data . . . ." Request Nos. 31 asked for this same information for Qwest's 2004 ARMIS line counts. Qwest's April 14, 2006 response to Request No. 30 and Qwest's May 30 and June 2, 2006 compelled responses to Request No. 31 did not include any calculation or description of an adjustment for services provided out of the Salt Lake Main wire center with digital business channels allegedly associated with service in a different wire center.

On May 24, 2006, Qwest filed its response testimony. Included in that testimony was the Response Testimony of David L. Teitzel, which on pages 19-20 includes a general description of Qwest's contention that there are services provided out of the Salt Lake Main wire center with digital business channels allegedly associated with service in a different

wire center. Nothing in Qwest's response testimony, however, attempts to quantify the number of such channels or advocate that the business line counts that Qwest provided in Highly Confidential Exhibit DLT-1 should be adjusted to account for these channels lines.

On June 5, 2006, Qwest filed its surrebuttal testimony. Included in that testimony was the Surrebuttal Testimony of David L. Teitzel and Highly Confidential Exhibit DLT-2. In that testimony and exhibit, Qwest for the first time advocates that its ARMIS 43-08 switched business access line counts should be adjusted to account for services provided out of the Salt Lake Main wire center with digital business channels allegedly associated with service in a different wire center. Qwest also for the first time purports to quantify that new adjustment and now proposes new business line counts for the Salt Lake Main wire center. Qwest's testimony and exhibits include no information supporting Qwest's calculations. Qwest also has not supplemented its responses to the Joint CLECs' data requests to provide such information, even though those requests unambiguously request such data.

The Commission should strike Highly Confidential Exhibit DLT-2 and the portions of Mr. Teitzel's Surrebuttal Testimony that purport to explain that exhibit and Qwest's new advocacy. Qwest has made a new proposal in its surrebuttal testimony, filed one week before the hearings are scheduled to begin, when the Joint CLECs have no opportunity to respond to that proposal. Qwest has also provided no information on its latest line count calculations that would enable the Joint CLECs, the Division, or the Commission to determine the accuracy of these calculations – despite the Joint CLECs' long-standing request for just such information. The Joint CLECs thus could not effectively respond to this new information even if they had the opportunity to do so.

Permitting Qwest to modify its business line counts under these circumstances would violate the Joint CLECs' due process rights, and accordingly, the Commission should strike Highly Confidential Exhibit DLT-2 and the Surrebuttal Testimony of David L. Teitzel at page 9, line 158 through page 10, line 2. Alternatively, the Commission should require Qwest to provide all information supporting its most recent business line count information, as well as quantifying and explaining how using the same methodology would affect the business line counts in the Salt Lake Main wire center using Qwest's 2004 ARMIS data. Qwest should be required to provide that data either (1) sufficiently in advance of the hearings scheduled to begin on June 13, 2006 to enable the Joint CLECs to evaluate and respond effectively to that information at the hearing, or (2) as soon as Qwest can provide that information and should continue the hearing, in whole or in part, or hold the record open until the Joint CLECs have had the opportunity to evaluate and effectively respond to that information.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Joint CLECs pray for the following relief:

- A. An order from the Commission striking page 9, line 158 through page 10, line 2 of the Surrebuttal Testimony of David L. Teitzel and Highly Confidential Exhibit DLT-2; or alternatively, requiring Qwest to supplement its responses to the Joint CLECs data requests, including but not limited to all information underlying the figures in that testimony and exhibit and a calculation of the same numbers using 2004 ARMIS data in sufficient time to enable the Joint CLECs to examine and effectively respond to that data either during the currently scheduled hearings or at a later date; and

B. Such other or further relief as the Commission finds fair, just, reasonable, and sufficient.

Dated this 7th day of June, 2006.

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By: \_\_\_\_\_  
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