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*Attorneys for Qwest Corporation*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of QWEST CORPORATION'S  
Land Development Agreements (LDA) Tariff  
Provisions

Docket No. 03-049-62

**DECLARATION OF DON GREEN**

Don Green, having been duly sworn upon his oath, testifies under penalty of perjury as follows:

1. I am employed by Qwest Corporation ("Qwest") as Manager Design Engineering in Network Services for Qwest in Utah. In this position, I am responsible for, among other things, design engineering and installation of telecommunications facilities in new residential subdivisions within the state of Utah. I have held this position with Qwest and its predecessor U S WEST Communications, Inc. ("U S WEST") since 1999. Prior to that, I was employed as an engineer in the network

organization for U S WEST since 1996. Prior to that, I was employed in a variety of other positions in the network organization of U S WEST and its predecessor The Mountain States Telephone and Telegraph Company since 1973.

2. This testimony is based upon information with which I am personally familiar or which is available within the Qwest network organization in the normal course of business. It is true and correct to the best of my knowledge, information and belief.

3. On June 3, 2005, Kit Hawkins, an Option 2 contractor, provided me with a list of all Option 2 projects on which he was working, with projects classified into two categories: (1) jobs that would be completed by July 31, 2005 and (2) jobs that would not be completed by July 31, 2005. I have been working with Mr. Hawkins since that time on appropriate transition of the projects in the second category.

4. On June 9, 2005, Qwest prepared the letter attached as Exhibit 1. The purpose of the letter was to confirm that Option 2 had been eliminated from Qwest's Land Development Agreement ("LDA") price list consistent with the Order of the Public Service Commission of Utah ("Commission") issued in this docket, to confirm the provisions for completion of pending Option 2 jobs which had previously been set forth in Qwest's price list filed May 12, 2005, to inform developers that Qwest was fully committed to meeting their needs in installation of telecommunications facilities within their new developments, to confirm Mr. Cooper's position as Utah New Development Manager, and to reiterate contact information for Mr. Cooper. The letter was mailed to all developers in Utah that had been using Option 2 of the LDA tariff on June 10<sup>th</sup> and 13<sup>th</sup>. It was inadvertently not mailed to Option 2 contractors.

5. On June 20, 2005, when I became aware that Exhibit 1 had not been mailed to Option 2 contractors, I consulted with other Qwest personnel and decided that we should contact each Option 2 contractor in person to confirm the information in the letter.

6. Kate Warren, a Qwest employee, and I contacted Stephan Allen of Clear Wave Communications. L.C. ("Clear Wave"), East Wind Enterprises, LLC, ("East Wind"), and Prohill, Inc. doing business as Meridian Communications of Utah (Meridian") (collectively "Clear Wave") on June 20<sup>th</sup>. He confirmed that he was aware of the provisions in the LDA price list, including the dates for phase-out of Option 2. We requested a list of projects being completed under Option 2, and Mr. Allen said that he would get back to us.

7. Ms. Warren and I left messages with Silver Creek Communications ("Silver Creek"), SBS Telecommunications, Inc. ("SBS"), and Stephanie Johnson on June 20<sup>th</sup>.

8. On June 24<sup>th</sup>, Gary Weaver, another Qwest employee, and I contacted Silver Creek again. We spoke with Mike Marty. He stated that he understood the dates and deadlines for phase-out of Option 2. He said he would be getting back to us with his list of pending projects. He expressed concern about what would happen with projects that were started but not complete by July 31<sup>st</sup>. I explained that Qwest would work with him on each project as soon as we knew the projects and their status.

9. On June 24<sup>th</sup>, Mr. Weaver and I contacted SBS and talked with Jay Bodine. Mr. Bodine explained that he understood the deadlines under the price list. He said that SBS wanted to finish the projects it had started. We explained we would work

with him based on the status of each individual project, but that we needed a list of his projects so that these issues could be addressed.

10. On July 6<sup>th</sup>, Stephanie Johnson called to ask me about the phase-out. I explained that Qwest needed a list of pending projects by July 15<sup>th</sup> and would be sending her a letter. She informed me she would be on vacation, but would get the list to Qwest by July 15<sup>th</sup>.

11. On July 7<sup>th</sup>, I prepared the letters attached as Exhibits 2 and 3. The purpose of these letters was to confirm for Option 2 contractors and developers the phase-out of Option 2 and to request that they provide Qwest with a list of all pending Option 2 projects, categorized into one of three categories:

- a. Developments that would be completed by July 31, 2005.
- b. Developments that would not be completed by July 31, 2005, including a description of the portion of work already completed.
- c. Developments not started (i.e. engineering and construction work not started).

The letter explained that Qwest would deal with projects in the first category under Option 2, that it would need to discuss projects in category 2 with the developer or Option 2 contractor to determine the best way to transition them and that it would immediately start engineering work for projects in category 3 so as not to delay placement of telecommunications facilities. These letters were mailed by certified mail to Option 2 contractors on July 8<sup>th</sup> and by regular mail to developers using Option 2 contractors from July 9<sup>th</sup> to 13<sup>th</sup>.

12. On July 11<sup>th</sup>, Darren Keller, a Qwest employee, called to inform me that he had received two faxes from SBS in which SBS proposed to sell telecommunications facilities in two subdivisions, Avanyu Acres Plat D and Durrant Meadows, which it was placing pursuant to an agreement between the developer and SBS “assigning exclusive telephone network development rights” [emphasis in faxes] for each subdivision to SBS. Mr. Keller provided me with copies of the faxes, which were attached to Qwest’s Notice of Violation of Order and Statute and Request for Expedited Relief filed on July 15, 2005. Keith Hawkins, another Qwest Employee, was working near Avanyu Acres Plat D and offered to take a look to see if trenches were open. When he got there, Jay Bodine and the developer (Red Daley) were there. He discussed the trenches with them and was told we could not have access. He explained that Option 2 projects should have Letters of Authorization prior to June 10<sup>th</sup>, but Mr. Bodine explained that this was the new way things would be done since the “complete de-regulation of Qwest”.

13. On July 12<sup>th</sup>, Keith Hawkins and I met with the developer of Avanyu Acres Plat D. We explained that Qwest would not buy the facilities installed by SBS, but that it would try to work with the developer to assure that telephone service was provided to customers building homes in the subdivision. The developer stated that he had signed the agreement with SBS because SBS had offered to provide the joint utility trench for free and that SBS had assured him that Qwest would purchase SBS’s facilities. Darren Keller, told me that he had participated in similar conversations with the developer of Durrant Meadows.

14. On July 13<sup>th</sup>, I assisted Mr. Cooper in preparation of the letter attached as Exhibit 4. The purpose of the letter was to inform developers using Option 2 that Qwest

would not purchase facilities installed by contractors under agreements “assigning exclusive telephone network development rights” to the contractor and would not allow such facilities to be interconnected with its network, to reiterate the terms and deadlines for phase-out of Option 2 and to reiterate other information from the June 9<sup>th</sup> letter. The letter was mailed to developers from July 13<sup>th</sup> to 15<sup>th</sup>.

15. From July 13<sup>th</sup> to date, I or employees I supervise have had discussions with several Option 2 contractors and developers to discuss transition of projects identified as pending Option 2 jobs for which work will not be completed by July 31<sup>st</sup> or for which work will not be started by July 31<sup>st</sup> and to discuss implementation of the new price list provisions without Option 2. For several Option 2 projects, we have been able to reach understandings that are satisfactory to both the Option 2 contractors and Qwest regarding transition.

16. Although there has been one additional conversation with Clear Wave and additional conversations with SBS, Clear Wave and SBS have not provided lists of pending Option 2 jobs to date, so there has been no conversations with them regarding terms and conditions for transition of Option 2 projects that will not be completed by July 31<sup>st</sup>. Silver Creek has met with an engineer in Ogden to identify the projects Silver Creek would be turning over to Qwest for completion. However, Silver Creek has not contacted me to work out issues on partially completed projects.

17. Qwest is ready, willing and able to make reasonable arrangements for transition of Option 2 projects for which letters of authorization were received by June 10<sup>th</sup> and for which engineering or construction work has started but which will not be completed by July 31<sup>st</sup>. Qwest has every intention of making use of these facilities and of

compensating Option 2 contractors fairly. In some cases, the arrangements may include allowing Option 2 contractors to finish installation where projects will be completed shortly after July 31<sup>st</sup>. This must be decided on a project by project basis based on the facts and circumstances with respect to each project.

18. Qwest is committed to provide prompt installation of telecommunications facilities in all new residential subdivisions once trenches are opened and electrical facilities have been installed in accordance with the terms of its LDA price list. In order to assure that this occurs, Qwest needs to know the status of projects for which Option 2 was originally contemplated, but which will not be substantially completed by July 31<sup>st</sup>.

19. Based on Qwest's understanding of the agreements between SBS and certain developers "assigning exclusive telephone network development rights" to SBS, Qwest is concerned about the ability of Qwest or any other telecommunications corporation to provide telecommunications service to customers in those developments on a timely manner. The bases for these concerns include the fact that developers may be hesitant or unwilling to provide a second trench for placement of the telecommunications facilities of a telecommunications corporation, there may not be sufficient room to place such facilities in a second trench within public utility easements and local governments may be unwilling to issue cut permits for the placement of telecommunications facilities by Qwest or another telecommunications corporation when surfacing has been newly completed in public roadways in subdivisions.

Signed under penalty of perjury: July 25, 2005.

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Don Green

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DECLARATION OF DON GREEN** was served upon the following by electronic mail, on July 25, 2005:

Patricia E. Schmid  
Assistant Attorney General  
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and upon the following by first-class mail, postage prepaid, on July 25, 2005:

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