

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**In the Matter of the Petition of QWEST)
CORPORATION for Arbitration of an)
Interconnection Agreement with UNION)
TELEPHONE COMPANY d/b/a UNION)
CELLULAR under Section 252 of the)
Federal Telecommunications Act)**

DOCKET NO. 04-049-145

**DIRECT TESTIMONY
OF
ROBERT H. WEINSTEIN
FOR
QWEST CORPORATION**

[Disputed Issues: 4 and 5]

QWEST EXHIBIT 2

October 4, 2005

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1 **I. EXECUTIVE SUMMARY**

2 My name is Robert H. Weinstein. I work in the Qwest Corporation (“Qwest”) Wholesale
3 department. Qwest and Union Telephone Company d/b/a “Union Cellular” have engaged
4 in negotiations of a wireless¹ interconnection agreement. A number of issues remain that
5 prevent our two companies from executing a final agreement. My testimony will address
6 Issue No. 4, Transit traffic, and Issue No. 5, Rates for Non-local Calls. Ms. Cederberg
7 will address the other issues in dispute.

8 “Transit Traffic” is the focus of Issue 4. Qwest delivers its own customer’s calls to
9 Union Cellular customers and also delivers calls from the end user subscribers of other
10 wireless companies, CLECs, and independents. The latter calls are commonly referred to
11 as transit traffic. My testimony describes how Qwest’s proposed language adheres to
12 FCC decisions making clear that the originating end user’s company is responsible to
13 Union Cellular for paying for the traffic of their end users, and that Qwest, as the transit
14 provider, is not responsible. Union Cellular’s language imposes significant burdens on
15 Qwest which Qwest is not required to assume, and allows Union Cellular to circumvent
16 its duty to fully negotiate interconnection agreements with third-party carriers with which
17 Union Cellular is exchanging traffic. Interconnection and reciprocal compensation are
18 the duties of all local exchange carriers, including competitive local exchange carriers
19 and Commercial Mobile Radio Service (CMRS) providers even when Qwest acts as a

¹ Section 4.87 of the interconnection agreement contains the following definition: “Wireless” for the purposes of this Agreement, are Telecommunications Services provided by a 2-way CMRS Carrier in accordance with its CMRS license(s). This includes both Cellular and Personal Communications Service Providers.”

20 transit provider. The Act allows for carriers to meet this obligation by either connecting
21 directly or indirectly to other carriers. Opting for an indirect connection means that the
22 traffic will be routed through an intermediate or transit carrier such as Qwest. However,
23 connecting indirectly does not remove the fundamental obligation of the originating
24 carrier to be financially responsible for the traffic their end users originate, e.g., if the
25 traffic is local, appropriate reciprocal compensation from the originating carrier to the
26 terminating carrier applies. Qwest is merely a transiting carrier. As a transit carrier,
27 Qwest's customers are not originators of the calls and are not the cost-causers. Qwest
28 should not have the responsibility to pay Union Cellular for these calls nor should it have
29 the responsibility to police these calls. In a related issue I will discuss the language
30 obligating an originating carrier to provide billing and usage records.

31 For Issue 5, my testimony describes how the language in these paragraphs is necessary to
32 determine rates for land to mobile InterMTA calls and how Union Cellular's proposed
33 language would allow it to improperly charge Qwest for InterMTA calls even when
34 Qwest is not providing the InterMTA service to the caller.

35 My testimony demonstrates the sufficiency of Qwest's proposed language and the
36 problems with Union Cellular's proposal.

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II. IDENTIFICATION OF WITNESS

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**Q. PLEASE REVIEW YOUR WORK EXPERIENCE, PRESENT
RESPONSIBILITIES AND EDUCATION.**

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A. My name is Robert Weinstein. I work for Qwest Corporation (“Qwest”) in the
Wholesale Markets organization. My business address is 1801 California Street, 24th
Floor, Denver, Colorado, 80202.

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I joined Qwest in my current capacity in July 2003. In addition to managing the
implementation of various systems initiatives, I provide support and act as a witness for
Qwest’s response to issues with respect to FCC orders, state commission decisions, and
other legal and regulatory matters.

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I received a Bachelor of Science Degree in Business Administration from the University
of Colorado in 1985. In June 1990, I earned a Juris Doctorate from the University Of
Denver College Of Law and passed the Colorado Bar Examination in October of 1990. I
am currently licensed to practice in the State of Colorado as well as the federal courts in
Colorado.

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After the Bar Examination, I worked as a Deputy District Attorney for the Eighteenth
Judicial District of Colorado. In 1995, I joined Quiat, Schlueter, Mahoney and Ross,
P.C., where my practice included business, transactional, and information technology
law. In 1997, I joined Levin, Rechlitz and Schimel, L.L.C., in Denver, concentrating on
business and contract law.

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57 In 1998, I joined U S WEST (now known as Qwest). During the time period between
58 1998 and 2001, I participated in project management, business analysis, data modeling
59 and contract negotiation in a variety of different information technology initiatives. In
60 2001, I left Qwest to implement and convert billing systems for several national
61 broadband companies as a consultant for Trillion Technologies. As I mentioned above, I
62 returned to Qwest in July 2003.

63 **Q. HAVE YOU PREVIOUSLY APPEARED BEFORE THE UTAH PUBLIC**
64 **SERVICE COMMISSION?**

65 **A.** No.

66 **Q. HAVE YOU TESTIFIED BEFORE OTHER STATE REGULATORY**
67 **COMMISSIONS?**

68 **A.** Yes. I have provided testimony for Qwest in the states of Colorado, New Mexico and
69 Wyoming.

70 **III. PURPOSE OF TESTIMONY**

71 **Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR**
72 **TESTIMONY.**

73 **A.** This arbitration involves unresolved contract issues in an interconnection agreement
74 between a wireless carrier (Union Cellular) and a wireline carrier (Qwest). Qwest is the
75 incumbent wireline local exchange carrier. The other party to this proceeding, and to the
76 agreement that will result, is the wireless company Union Cellular, part of the

77 independent telephone company, Union Telephone Company.² Only wireless traffic is
78 addressed in this interconnection agreement.

79 The purpose of my testimony is to explain why Qwest's proposed language is the
80 appropriate language for this interconnection agreement. I will explain Qwest's positions,
81 and the policies underlying those positions, relating to two of the five issues that are still
82 open in this arbitration proceeding. I will use the numbering system in the Revised Issues
83 Matrix – AMC-1 attached to Ms. Cederberg's testimony. Even though Union Cellular
84 has not approved the matrix, it is Qwest's understanding that Union Cellular does not
85 dispute the list of issues that need to be resolved as indicated on the matrix.

86 The two open issues on which I will be providing testimony are:

87 ISSUE 4: Transit Traffic (Sections 6.2.4.3.1, 6.2.4.3.3)

88 ISSUE 5: Non-local Traffic (Sections 6.3.8.14, 6.3.9.1)

89 Each issue and its resolution impact several paragraphs of the interconnection agreement
90 ("ICA") between Qwest and Union Cellular. I will discuss each paragraph separately.
91 Qwest's language is presented in normal type. All of the language Union Cellular
92 proposes to **add** is shown in a bold face, underlined type and the language Union Cellular
93 proposes to ~~delete~~ is shown as a bold strikethrough. I will explain why each Union
94 proposed deletion or addition should be rejected. The Commission should adopt the
95 language proposed by Qwest because it is consistent with the Telecommunications Act of

² I will use the term "Union Cellular" to denote the Union wireless carrier that is party to this proceeding, and the agreement that will result.

96 1996 (the “Act”) and FCC rulings and reflects the current status of the law. Ms.
97 Cederberg will cover the outstanding issues 1, 2 and 3. I will discuss Issue 4 first and
98 finish with issue 5.

99 **IV. ISSUE 4: TRANSIT TRAFFIC**

100 **Q. PLEASE DESCRIBE THE DISPUTE IN ISSUE 4?**

101 **A.** “Transit traffic” is traffic that is originated by one carrier (the originating carrier), carried
102 over another carrier’s network (the transiting carrier) and terminated to a third carrier’s
103 network (the terminating carrier.) Qwest and other carriers provide transit service. Even
104 Union Cellular may use Qwest to deliver its cellular customer calls to other cellular
105 companies, other independent companies and other CLECs on Union Cellular’s behalf.
106 Qwest and Union Cellular have agreed on language for the ICA that states that Qwest
107 will carry transit traffic to and from Union Cellular. However, language in two
108 paragraphs, 6.2.4.3.1 and 6.2.4.3.3 remains in dispute. The disputed issues relate to
109 additional responsibilities that Union Cellular wants to impose on Qwest as a transit
110 provider.

111 **Q. PLEASE DESCRIBE “TRANSIT TRAFFIC?”**

112 **A.** Transit traffic consists of calls placed by subscribers of one carrier and delivered to a
113 second (intermediate) carrier that then transports the calls to the carrier serving the called
114 parties. The transport function performed by the intermediate carrier (Qwest) is known
115 as “transiting.” Transiting has been referred to as an “indirect method of

116 interconnection” between originating and terminating carriers.³ For example, if Cingular
117 and Union Cellular have no direct interconnection, when a Cingular customer places a
118 call to a Union Cellular customer, a transiting carrier (in this case Qwest) transports the
119 traffic over Qwest’s network delivering it to Union Cellular for call completion.

120 **Q. HOW DOES QWEST PERFORM THE TRANSIT FUNCTION?**

121 **A.** Transit traffic is routed from the caller’s carrier (i.e., in our example, Cingular) to a
122 Qwest tandem switch. Qwest then transports the call to the called party’s carrier (i.e.,
123 Union Cellular), together with signaling information that is sent by the carrier serving the
124 caller. Qwest simply serves as an intermediate carrier that only provides a link between
125 the originating carrier and the terminating carrier.

126 **Q. IS QWEST REQUIRED TO PROVIDE TRANSITING?**

127 **A.** No.⁴ The FCC recognizes that many carriers provide transiting voluntarily. The FCC
128 emphasized the importance of not unduly burdening transit carriers so that transit service
129 will continue to be provided voluntarily.⁵

³ *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Order on Reconsideration, 15 FCC Rcd 17806 at para. 88-90 (2000).

⁴ *In the Matter of Petition of Cavalier Telephone LLC Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Arbitration*, Memorandum Opinion and Order, 18 FCC Rcd 25887 at para. 38 (2003).

⁵ *In the Matter of Developing a Unified Inter-carrier Compensation Regime*, Notice of Proposed Rulemaking, 20 FCC Rcd 4685 at para. 129 (2005).

130 **Q. HOW IS TRANSIT TRAFFIC DEFINED IN THE INTERCONNECTION**
131 **AGREEMENT?**

132 **A.** The agreed to language in Section 4.84 of the ICA defines transit traffic as:

133 “Transit Traffic” is any traffic that originates from one Telecommunications
134 Carrier’s network, transits a Tandem Telecommunications Carrier’s network, and
135 terminates to yet another Telecommunications Carrier’s network. In the[se] cases
136 neither the originating nor the terminating End User Customer is a Customer of a
137 Tandem Telecommunications Carrier. For the purposes of this Agreement,
138 Transit Traffic does not include traffic carried by Interexchange Carriers. That
139 traffic is defined as Jointly Provided switched Access.

140 Qwest and Union Cellular have agreed on language stating that Qwest will carry transit
141 traffic to and from Union Cellular.

142 **Q. WHAT LANGUAGE IS IN DISPUTE RELATED TO TRANSITING?**

143 **A.** The issues in dispute relate to additional responsibilities that Union Cellular wants to
144 impose on Qwest. Two paragraphs, 6.2.4.3.1 and 6.2.4.3.3, are in dispute.

145 **A. Section 6.2.4.3.1**

146 **Q. WHAT IS THE DIFFERENCE BETWEEN QWEST’S AND UNION**
147 **CELLULAR’S LANGUAGE FOR 6.2.4.3.1?**

148 **A.** Section 6.2.4.3.1 states⁶:

149 Qwest will accept traffic originated by Union for termination to a CLEC, ILEC,
150 or another Wireless Carrier that is connected to Qwest’s local and/or Access
151 Tandems and whose switch sub-tends Qwest’s network per the LERG. Qwest

⁶ As mentioned above, the language Union Cellular proposes to add is shown in a bold face, underlined type and the language Union Cellular proposes to delete is shown as a bold strikethrough.

152 will also carry traffic from these other Telecommunications Carriers to Union.
153 **Qwest shall notify Union in writing of each carrier for which it is acting as**
154 **the transit carrier prior to delivering such traffic to Union. Qwest will stop**
155 **delivering the traffic of any carrier at Union's request when ever such**
156 **carrier has not paid termination charges to Union. Qwest will be responsible**
157 **for traffic that is delivered without identifying information.**

158 Qwest's proposed language is an offer to provide Union with transiting service. Union
159 Cellular proposes to add language imposing obligations on Qwest well beyond the
160 responsibilities and practices of a transit carrier. Union Cellular's language requires
161 Qwest to:

- 162 • Take responsibility for transit traffic delivered without identifying
163 information, presumably meaning that Qwest is liable for termination charges
164 legally the responsibility of the originating carrier.
- 165 • Block transit traffic of a carrier who has not paid terminating charges to Union
166 Cellular, upon Union Cellular's request.
- 167 • Notify Union Cellular in writing of each carrier to which Qwest is providing
168 transiting, prior to delivery of traffic from that carrier to Union Cellular.

169 **Q. SHOULD QWEST, AS A TRANSIT CARRIER, EVER BE LIABLE TO PAY**
170 **TERMINATION CHARGES TO UNION CELLULAR FOR TRANSIT CALLS,**
171 **EVEN THOSE WITHOUT "IDENTIFYING INFORMATION"?**

172 **A.** Absolutely not. Qwest is the transit traffic provider. Qwest transports the traffic from
173 originating carrier to terminating carrier, e.g., Union Cellular. It is not originated or
174 terminated by Qwest. Qwest does not provide service to either the originating end user or
175 the terminating end user. Imposing termination charges on transit traffic obligates Qwest
176 customers to bear the cost of carrying traffic when there is no relation to the originating

177 end user, giving the originating carrier and its customers a “free ride.” As the FCC has
178 explained:

179 Currently, our rules in this area follow the cost causation principle of allocating
180 the cost of delivering traffic to the carriers responsible for the traffic, and
181 ultimately their customers. Thus, through reciprocal compensation payments, the
182 cost of delivering LEC-originated traffic is borne by the persons responsible for
183 those calls, the LEC’s customers. As we stated in the *Local Competition Order*,
184 “the local caller pays charges to the originating carrier, and the originating carrier
185 must compensate the terminating carrier for completing [**6] the call.” We
186 reflected this thinking in section 51.703(b), which bars a LEC from charging for
187 the delivery of traffic that originates on the LEC’s own network. In the case of
188 third-party originated traffic, however, the only relationship between the LEC’s
189 customers and the call is the fact that the call traverses the LEC’s network on its
190 way to the terminating carrier. Where the LEC’s customers do not generate the
191 traffic at issue, those customers should not bear the cost of delivering that traffic
192 from a CLEC’s network to that of a CMRS carrier like Answer Indiana.⁷

193 Union Cellular’s proposed language gives originating carriers a financial incentive to
194 shift their responsibility for paying rates to terminate that traffic to Qwest by omitting
195 signaling information. This is not an appropriate outcome in any sense. Since Qwest’s
196 customers do not generate the transit traffic they should not pay for transporting the
197 transit traffic from the originating carrier’s network to Union Cellular’s network or for
198 any charges of Union Cellular to terminate the transit traffic.⁸

⁷ *Texcom, Inc. v. Bell Atlantic Corp.*, Memorandum Opinion and Order, 16 FCC Rcd 21493, at para. 10, (2001).

⁸ *In re Exchange of Transit Traffic*, Docket No. SPU-00-7, Proposed Decision and Order (Nov. 26, 2001 Iowa Util. Bd.), Order Affirming Proposed Decision and Order (March 18, 2002 Iowa Util. Bd.), Order Denying Application for Rehearing (May 3, 2002 Iowa Util. Bd.); see also *Rural Iowa Independent Telephone Ass’n v. Iowa Utilities Board*, Order on Motion by Intervenor and Defendant for Summary Judgment, Case No. 4:02-CV-40348, (S.D. Iowa) (August 11, 2005); *Union Telephone Co. v. Qwest Corp.*, Order on Defendant’s Motion for Summary Judgment, Case No. 02-CV-209-D, (D. Wyo.) (May 11, 2004) ; *3 Rivers Telephone Coop. v. U S WEST Communications*, 125 F. Supp. 2d 417 (D. Mont. 2000), *rev’d on other grds.*, 45 Fed. Appx. 698 (9th Cir. 2002).

199 **Q. HAS THE FCC ADDRESSED THE LIABILITY OF A TRANSIT CARRIER**
200 **WHEN INFORMATION SUFFICIENT TO IDENTIFY AND/OR BILL THE**
201 **ORIGINATING CARRIER HAS NOT BEEN RECEIVED BY THE**
202 **TERMINATING CARRIER?**

203 **A.** Yes. The FCC's Wireline Competition Bureau addressed this issue while arbitrating an
204 interconnection agreement between Verizon, and Cavalier Telephone Company.⁹ The
205 Bureau ruled the transit carrier, Verizon, was only responsible for compensating the
206 terminating carrier, Cavalier, if Verizon failed to pass or altered the information Verizon
207 received from the originating carrier.¹⁰ The Bureau also ruled that Verizon was not
208 obligated to make any modifications to its network, billing systems or other systems to
209 ensure that Cavalier could identify and bill the originating carriers.¹¹

210 **Q. DOES UNION CELLULAR'S PROPOSAL VIOLATE THE PRINCIPLES OF**
211 **THE BUREAU'S RULING IN THE VERIZON/ CAVALIER ARBITRATION?**

212 **A.** Yes. Union Cellular's proposal makes the transit carrier Qwest responsible for
213 compensating Union Cellular, even when Qwest provides Union Cellular with all the
214 information Qwest receives from the originating carrier without alteration. This directly

⁹ *In the Matter of Petition of Cavalier Telephone LLC Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Arbitration*, Memorandum Opinion and Order, 18 FCC Rcd 25887 (2003). The Bureau was acting pursuant to 47 U.S.C. §252(e)(5), which provides that the FCC should serve as the arbitrator when a state commission, in this case, Virginia, fails to act.

¹⁰ *Id.* at para. 50.

¹¹ *Id.* at para. 40, 42.

215 conflicts with the Bureau's ruling requiring payment to the terminating carrier only if
216 information from the originating carrier was not passed on or was altered by the transit
217 carrier. Union Cellular's proposed language encourages a shift in financial culpability of
218 the responsible party. Unions proposed addition of language on this issue should be
219 rejected.

220 **Q. PRIOR TO PROVIDING THE SIGNALING INFORMATION TO THE**
221 **TERMINATING CARRIER, DOES QWEST REMOVE OR ALTER SIGNALING**
222 **INFORMATION IT RECEIVES FROM AN ORIGINATING CARRIER?**

223 **A.** No. Qwest does not remove the identifying codes from other carriers' traffic or alter the
224 information. Qwest passes the traffic and signaling information to Union Cellular in the
225 form the traffic and signaling are received. If originating carriers do not provide caller
226 identification information with their traffic, Qwest does not have the ability to add the
227 information. The Bureau decision I described above confirms that Qwest has no
228 obligation to supplement the information it receives from the originating carrier. The
229 objective of the language in this section is to make absolutely clear that the originating
230 carrier, not the transit carrier, is responsible for paying termination charges in connection
231 with transit traffic *and* for providing information sufficient to allow billing by the
232 terminating carrier.

233 **Q. SHOULD QWEST, AS A TRANSIT CARRIER, BE REQUIRED TO BLOCK**
234 **CALLS FROM ORIGINATING CARRIERS AT UNION’S REQUEST?**

235 **A.** No. Union Cellular is responsible for managing its disputes with originating carriers.
236 Qwest is not. Qwest is in an untenable position if Union Cellular and another
237 telecommunications carrier have a billing dispute and either party asks Qwest to block
238 traffic. Forcing Qwest to “take sides,” and act as judge, jury and executioner when it is a
239 mere bystander to the dispute is wrong.¹² Moreover, consumers and public officials may
240 blame Qwest or seek to hold Qwest legally responsible for the blockage, end user service
241 interruption or emergency services disruption, injuring Qwest’s reputation, even though
242 Qwest is acting at the request of another carrier. If Union Cellular has not received
243 payment from an originating carrier, it should not pull Qwest into the dispute between the
244 two telephone companies in the state and should utilize this Commission or the courts to
245 resolve the disputes. Union Cellular should not put Qwest in the middle of a dispute
246 between itself and another party.

247 **Q. SHOULD QWEST BE REQUIRED TO NOTIFY UNION CELLULAR IN**
248 **WRITING OF EACH CARRIER IT PROVIDES TRANSITING SERVICE TO**
249 **PRIOR TO DELIVERY OF THE CALL?**

250 **A.** No. Union Cellular has other methods available to determine the carriers it receives
251 traffic from without imposing additional burdens on Qwest. For example, through
252 publicly available industry resources such as the Local Exchange Routing Guide (LERG),

¹² The resolution of such a dispute would probably require access to proprietary information of other carriers (*e.g.*, payment records) that, again, is improper in the situation.

253 all telecommunications carriers that subtend every tandem, including Qwest's Utah
254 tandems, are identified. These parties can enter their information into the LERG without
255 consulting either Union Cellular or Qwest, and once entered, both Union Cellular and
256 Qwest have the same information at the same time. Union Cellular may ensure that it has
257 a business relationship with each of the carriers it identifies.¹³ If Union Cellular has no
258 agreement with a carrier that sends transit traffic to Qwest, it may pursue the carrier
259 identification information to identify the carrier and request that carrier to negotiate an
260 interconnection agreement. If any party should notify Union Cellular that it is sending a
261 call and using Qwest's network for transit, it is the originating carrier. The Commission
262 should not place the burden on the transit carrier Qwest. Union Cellular's attempt to
263 insert notification language into the agreement should be rejected. Qwest's proposed
264 language in 6.2.3.4.1 should be accepted.

265 **B. Section 6.2.4.3.3**

266 **Q. PLEASE DESCRIBE THE DISPUTE REGARDING SECTION 6.2.4.3.**

267 **A.** Section 6.2.4.3.3 as proposed by Qwest and modified by Union is as follows:

268 Except as noted in Section 6.2.4.3.4 below, the originating company is
269 responsible for the provisioning of billable usage data and/or billable records and
270 payment of appropriate rates to both the transit company and to the terminating
271 company. The transit company may waive the data and/or record provisioning
272 requirement at its option. ~~In no event shall the transit company be obligated to~~
273 ~~pay termination charges to any other carrier.~~ The transit company shall have
274 the option of receiving the originating usage data in either report format or

¹³ Although it is industry practice that carriers input information into the LERG, some information may be lacking. Again, this should not be the burden of the transit carrier.

275 billable record format. If the transit company elects to receive billable records,
276 the record format shall be in accordance with industry standard Category 11-01
277 record format **and provided without cost.**¹⁴

278 **Q. WHAT DOES THIS PARAGRAPH MEAN?**

279 **A.** This paragraph makes the originating carrier responsible for providing appropriate billing
280 data and records in a Category 11-01 format. Qwest very rarely will originate a call and
281 use Union Cellular as a transit carrier to others. However, Union Cellular very often
282 would originate traffic that transits Qwest's network to third parties. For example, if a
283 Union Cellular end-user calls a friend who uses Verizon Cellular, unless a direct
284 connection between Union Cellular and Verizon Cellular exists, the call may transit
285 Qwest's network. Since Union Cellular almost always will be the originating carrier and
286 Qwest will be the transit carrier, Qwest is unsure of why Union Cellular is offering to
287 provide the Category 11-01 records at no charge. The effect of Union's proposal would
288 be to obligate Union Cellular to provide records at no cost almost all of the time. If this
289 is Union Cellular's intent, I do not believe this or any other language in the agreement
290 requires a transit carrier to provide records without charge, and would object strongly to
291 any such requirement since Qwest would incur costs in providing such records. It is only
292 appropriate that the costs incurred by Qwest should be recovered from the carriers who
293 desire to have these records.

¹⁴ As mentioned above, the language Union Cellular proposes to add is shown in bold face, underlined type and the language Union Cellular proposes to delete is shown as a bold strikethrough.

294 **Q. WHY SHOULD QWEST'S LANGUAGE MAKING CLEAR THAT THE**
295 **TRANSIT PROVIDER IS NOT RESPONSIBLE FOR OTHER PARTIES**
296 **TERMINATION CHARGES BE ACCEPTED?**

297 **A.** This is the position taken by the FCC and the Qwest language incorporates that position
298 clearly and unambiguously. This sentence is necessary to make it clear that the transit
299 carrier is not liable for these calls. The transit carrier does not have an end user involved
300 in any way in these calls and so it would not be appropriate for them to cover any costs
301 for this traffic. As I discussed earlier in my testimony, FCC rulings hold a transit carrier
302 is not financially responsible for termination charges for traffic when it is not the
303 originating carrier of the traffic. This language is consistent with the FCC rulings.
304 Union's attempt to strike this language should be rejected.

305 **V. ISSUE 5: NON-LOCAL TRAFFIC**

306 **Q. WHAT IS THE DIFFERENCE BETWEEN QWEST'S AND UNION**
307 **CELLULAR'S PROPOSED LANGUAGE FOR ISSUE 5?**

308 **A.** Issue 5 relates to Sections 6.3.8.14 and 6.3.9.1 of the ICA between Qwest and Union
309 Cellular. I will discuss the issue in total and then each section separately.¹⁵ The language
310 of the disputed sections is:

311 6.3.8.14 If **Union a party** is direct Billing **Qwest the other**, the L-M InterMTA
312 factor will be applied to the billed land to mobile minutes of use originated from
313 **Qwest's the billed party's** network and terminated to **Union the billing party**

¹⁵ As mentioned above, for clarity purposes throughout my testimony, where Union Cellular seeks to add additional language to the paragraph, the proposal is shown in a bold underlined format and the language Union proposes to be deleted is shown as a bold strikethrough.

314 and deducted from ~~Qwest~~ total L-M MOU. No Reciprocal Compensation will be
315 paid ~~by Qwest to Union~~ for such traffic. ~~Qwest~~ Each party may bill ~~Union~~ the
316 other interstate switched Access Tariffed rates for this traffic.

317 6.3.9.1 ~~Qwest~~ switched Access Tariff rates apply to Non-Local Traffic routed to a
318 Toll/Access Tandem, Local Tandem, or directly to an End Office. Applicable
319 Qwest switched Access Tariff rates also apply to InterMTA and Roaming traffic
320 originated by, or terminating to ~~Qwest~~ the other Party. Relevant rate elements
321 could include Direct Trunked Transport, Tandem switching, Tandem
322 Transmission, and Local switching, as appropriate.

323 **Q. CAN YOU DESCRIBE ISSUE 5?**

324 **A.** Yes. Qwest's language properly addresses the role and responsibility of each type of
325 carrier in this arbitration – wireline and wireless. Union Cellular's language for
326 paragraphs 6.2.8.14 and 6.3.9.1 makes specific responsibilities mutual between Qwest
327 and Union Cellular. The calls involved, however, do not allow for these responsibilities
328 to be mutual.

329 **Q. HOW IS "INTERMTA TRAFFIC" DEFINED??**

330 **A.** A call between MTAs is non-local or InterMTA. The FCC defines the Local Calling
331 Area for a wireless call as the Major Trading Area ("MTA").¹⁶ An MTA is described in
332 the ICA as:

333 4.53 "Major Trading Area (MTA)" is a geographic area established in Rand
334 McNally 1992 Commercial Atlas and Marketing Guide and used by the FCC in
335 defining CMRS license boundaries for CMRS providers for purposes of Sections
336 251 and 252 of the Act.

337 The ICA defines Local Calling Area as:

¹⁶ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499 at para. 1036 (1996)

338 4.48.1 “MTA/Local” or “IntraMTA” means the geographic area within the MTA
339 in which Union provides CMRS services. Local Interconnection rates apply for
340 traffic originated and terminated within the same MTA. See Non-Local for
341 exceptions.

342 A call that originates on a wireless phone and terminates within the same MTA is treated
343 as a local call regardless of whether it crosses wireline local calling area exchange
344 boundaries. The same is true of a call that originates on a wireline phone and terminates
345 on a wireless phone within the same MTA. These IntraMTA calls whether land to
346 mobile (“L-M”) or mobile to land (“M-L”) are considered local for intercarrier
347 compensation purposes and subject to reciprocal compensation. Issue 5 involves only
348 non-local or InterMTA calls, which are subject to access compensation rules.

349 **A. Section 6.3.8.1**

350 **Q. WHAT IS THE ISSUE IN SECTION 6.2.8.14?**

351 **A.** Paragraph 6.2.8.14, deals only with Qwest customer originated calls, which necessarily
352 are land to mobile calls, and the process to determine local minutes of use. Because land
353 to mobile calls can only be originated by Qwest and wireless phone customers do not
354 originate land calls, Union Cellular’s proposal is illogical and the commission should
355 reject it.

356 **Q. WHAT DOES PARAGRAPH 6.3.8.14 MEAN?**

357 **A.** Paragraph 6.3.8.14 as proposed by Qwest, establishes the process for determining the
358 minutes of use of local calling for which Union Cellular can bill reciprocal compensation
359 to Qwest. Paragraph 6.3.8.14 is contained under Section 6.3.8, which concerns how local

360 traffic originated by Qwest wireline end users is billed.¹⁷ As mentioned above, Paragraph
361 6.3.8.14 primarily provides the formula for how InterMTA traffic is deducted from the
362 bill to determine local minutes. An L-M InterMTA factor, as designated by Paragraph
363 6.3.9.3 is assessed against the total of L-M minutes of use (“MOU”). The resulting
364 number is classified as InterMTA MOU and no reciprocal compensation is payable for
365 these MOU’s. These minutes are subtracted from the total L-M MOU, leaving the local
366 MOU that can be billed per local reciprocal compensation. Union Cellular cannot bill
367 reciprocal compensation on the calculated InterMTA minutes, which were subtracted
368 from the total L-M MOU.

369 **Q. WHY SHOULD THE COMMISSION REJECT UNION CELLULAR’S**
370 **PROPOSED LANGUAGE?**

371 **A.** This Commission should reject Union Cellular’s proposed language because it is simply
372 wrong. The section of the contract, 6.2.8 deals with local traffic. Paragraph 6.2.8.14
373 specifically addresses land to mobile calls. Since they are cellular customers (i.e.,
374 mobile) Union Cellular’s customers cannot originate land to mobile calls. Union’s
375 proposed language ignores this fact and creates an arrangement that cannot ever exist.
376 This is inappropriate. As to the last sentence where Union Cellular attempts to make the
377 language reciprocal, Union Cellular may not through any instrument impose access
378 charges, even for InterMTA calls, when Qwest is not the customer’s long distance carrier.

¹⁷ Another part of Section 6.3.8 is paragraph 6.3.8.1, which states, “the following are the requirements for a party to render a bill for local traffic...”

379 **Q. WHY SHOULD THE COMMISSION ACCEPT QWEST'S PROPOSAL FOR**
380 **THIS SECTION?**

381 **A.** The language in paragraph 6.3.8.14 simply removes InterMTA traffic MOUs from the
382 total Qwest originated L-M calls. The MOU's can only result from calls originated by
383 Qwest end-users. Qwest's proposed language does nothing other than set forth this fact.
384 The language is reasonable and logical and should be approved by the Commission.

385 **B. Section 6.3.9.1**

386 **Q. WHAT IS THE ISSUE IN 6.3.9.1**

387 **A.** Paragraph 6.3.9 deals with Non-Local traffic. Paragraph 6.3.9.1 sets Qwest's switched
388 access tariff rate as the rate that Qwest will charge an InterMTA call.¹⁸ Union Cellular's
389 proposed language allows Union Cellular to improperly use switched access tariffs to
390 charge access to Qwest for InterMTA calls.

391 **Q. DOES PARAGRAPH 6.3.9.1 APPLY TO A QWEST END USER ORIGINATED**
392 **INTERMTA CALL TO A UNION WIRELESS END USER?**

393 **A.** No. When a Qwest customer places an InterMTA call to a Union wireless end user,
394 Qwest delivers the call to the customer's long distance carrier which will transport the
395 call between MTA's to Union Cellular's POI. The long distance carrier will directly
396 charge the Qwest customer for the transport of the call. Qwest would be entitled to

¹⁸ InterMTA calls are subject to access compensation while IntraMTA calls are subject reciprocal compensation, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499 at para. 1036 (1996)

397 charge the long distance carrier originating switched access for use of its network but not
398 charge Union Cellular switched access charges. Likewise, Union Cellular would deal
399 with the long distance carrier for any compensation on its end.

400 **Q. DOES PARAGRAPH 6.3.9.1 APPLY TO A UNION END USER ORIGINATED**
401 **INTERMTA CALL TO A QWEST END USER?**

402 **A.** Most likely. If a Union Cellular end user places an InterMTA call to a Qwest local
403 service customer, the carrier responsible for access charges to Qwest is the carrier that
404 provides and bills the Union Cellular customer for long distance. In this case, if Union
405 Cellular is the long distance carrier providing and billing the caller for the long distance
406 service, Qwest is entitled to bill Union Cellular for terminating access service. Section
407 6.3.9.1 sets the Qwest switched access tariff rate as the rate Qwest can charge Union
408 Cellular for these calls. As an example, if a Union Cellular end user in Dutch John Utah,
409 initiates an InterMTA call to a Qwest local service customer in Salt Lake City, Utah
410 (these cities are in different MTA's), Union Cellular may provide the long distance
411 service and charge the customer for long distance (this charge may be included in a
412 monthly charge for example or an additional one time charge). Qwest will charge Union
413 Cellular terminating access charges pursuant to Qwest's tariffs. Where a Qwest local
414 service customer in Salt Lake City originates an InterMTA call to Union Cellular's
415 customer in Dutch John, Qwest delivers the call to its customer's chosen long distance

416 carrier (e.g., AT&T) for delivery to Union Cellular.¹⁹ Any access compensation owed to
417 Union Cellular or Qwest is the responsibility of the customer's chosen long distance
418 carrier.

419 **Q. WHY SHOULD UNION'S LANGUAGE BE REJECTED?**

420 **A.** First, as I describe above, Qwest does not originate "non-local" or InterMTA traffic that
421 goes directly to Union Cellular. Qwest will deliver the traffic to an IXC for transport to
422 Union Cellular on these calls. Union Cellular cannot assess access charges against Qwest
423 for this traffic but must deal with the IXC for compensation. Similarly, if a Union
424 Cellular customer calls a Qwest end user, Union Cellular may carry the call on its
425 network or a long distance carrier may bring the call to Qwest. Either way, Union
426 Cellular cannot charge Qwest originating access as a Union customer originated the call.
427 Union does not terminate the call so terminating access is similarly not proper. The
428 Commission should reject Union Cellular's language.

429 **VI. CONCLUSION**

430 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

431 **A.** Through my testimony I have demonstrated that Qwest's proposed language for Issues 4
432 and 5 is reasonable, follows the law and should be adopted by the Commission. At the

¹⁹ Qwest Corporation provides little if any InterMTA service as a result of section 271, 47 U.S.C. § 271. Qwest thus delivers InterMTA calls placed by its local service customers to the long distance carrier chosen by the customer.

433 same time, my testimony has demonstrated how Union Cellular has proposed language
434 that does not conform to applicable law, including FCC rulings and regulations.

435 Specifically, the Commission should reject Union Cellular's request to impose on Qwest
436 as a transit carrier, the additional burdens of (i) paying compensation to Union Cellular
437 for terminating calls for which the originating carrier has not provided information
438 sufficient to allow Union Cellular to bill the call, (ii) policing arrangements between
439 Union Cellular and the originating carriers by blocking traffic at the request of Union
440 Cellular, and (iii) providing Union Cellular with a list of carriers for which Qwest
441 provides transiting. Each of these proposals is designed, improperly, to circumvent
442 Union Cellular's duties to establish workable arrangements for the exchange of traffic
443 with other carriers.

444 The Commission should approve Qwest's language for Sections 6.3.8.14 and 6.3.9.1.
445 Section 6.2.8.14 simply allows computation of local minutes of use for land to mobile
446 calls for reciprocal compensation. Qwest's language is proper. Union Cellular's
447 language is illogical and should be rejected.

448 Similarly, Paragraph 6.3.9.1 as proposed by Qwest allows Qwest to charge its approved
449 Access Tariff rates when terminating all non-local (i.e., InterMTA) calls from Union
450 Cellular customers. Union Cellular's language is not applicable to the InterMTA calling
451 scenarios and should be rejected.

452 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

453 **A.** Yes.

State of Colorado)
) ss.
County of Denver)

I, Robert H. Weinstein, being first duly sworn on oath, state that the answers in the foregoing written testimony are true and correct to the best of my knowledge, information and belief. Except as stated in the testimony, the exhibits attached to the testimony were prepared by me or under my direction and supervision, and they are true and correct to the best of my knowledge, information and belief. Any exhibits not prepared by me or under my direction and supervision are true and correct copies of the documents they purport to be.

Robert H. Weinstein

SUBSCRIBED AND SWORN TO this 4th day of October, 2005.

Notary Public