

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF)
DIECA COMMUNICATIONS, INC., D/B/A)
COVAD COMMUNICATIONS COMPANY,) DOCKET NO. 04-2277-02
FOR ARBITRATION TO RESOLVE)
ISSUES RELATING TO AN)
INTERCONNECTION AGREEMENT)
WITH QWEST CORPORATION)

DIRECT TESTIMONY
OF
WILLIAM R. EASTON
FOR
QWEST CORPORATION

PAYMENT ISSUES

(Disputed Issue Nos. 10-1, 10-2, and 10-3)

OCTOBER 8, 2004

NON-CONFIDENTIAL & NON-PROPRIETARY VERSION

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I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is William R. Easton. My business address is 1600 7th Avenue, Seattle, Washington. I am employed as Director – Wholesale Advocacy. I am testifying on behalf of Qwest Corporation (“Qwest”).

Q. PLEASE GIVE A BRIEF BACKGROUND OF YOUR EDUCATIONAL BACKGROUND AND TELEPHONE COMPANY EXPERIENCE.

A. I graduated from Stanford University in 1975, earning a Bachelor of Arts degree. In 1980, I received a Masters of Business Administration from the University of Washington. In addition, I am a Certified Management Accountant and member of the Institute of Management Accountants.

I began working for Pacific Northwest Bell in 1980, and have held a series of jobs in financial management with U S WEST, and now with Qwest, including staff positions in the Treasury and Network organizations. From 1996 through 1998, I was Director – Capital Recovery. In this role I negotiated depreciation rates with state commissions and the FCC and testified in various regulatory proceedings. From 1998 until 2001 I was a Director of Wholesale Finance, responsible for the management of Wholesale revenue streams from a financial perspective. In this capacity I worked closely with the Product Management organization on their product offerings and projections of revenue. In October of 2001 I moved from Wholesale Finance to the Wholesale Advocacy group,

1 where I am currently responsible for advocacy related to Wholesale products and services.
2 In this role I work extensively with the Product Management, Network and Costing
3 organizations.

4 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN UTAH?**

5 A. Yes. I have testified previously in Docket Nos. 94-999-01, 95-049-22, 97-049-16, 97-
6 2227-01, 01-049-85 and 03-049-19.

7 **II. PURPOSE OF TESTIMONY**

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. The purpose of my testimony is to explain Qwest's positions, and the policies underlying
10 those positions on Disputed Issue No. 10 - Payment Issues. There are three distinct
11 subparts to this issue in this arbitration proceeding: 10-1 (Due Dates for Amounts
12 Payable); 10-2 (Timing for Discontinuing Orders); and 10-3 (Timing for Disconnecting
13 Services).¹ At the time Covad filed its Petition for Arbitration there was a fourth payment
14 issue involving the definition of "repeatedly delinquent", which has since been resolved by
15 the parties.

16 My testimony will show that the Qwest position on these payment issues strikes a
17 commercially reasonable and appropriate balance between meeting the billing and payment
18 needs and concerns of both Covad and Qwest. It will also show that Covad has failed to

1 demonstrate why there should be any deviation from those standards which are generally
2 applicable industry-wide.

3 **Q. IN ITS PETITION FOR ARBITRATION, COVAD CHARACTERIZES ISSUE NO.**
4 **10 AS BEING ABOUT "PROVISIONS RELATED TO BILLING AND BILLING**
5 **DISPUTE RESOLUTION." IS THIS AN ACCURATE DESCRIPTION OF THE**
6 **ISSUE?**

7 A. No. The language in dispute involves separate subsections of Section 5.4 of the
8 interconnection agreement entitled "Payment," which is the section where the parties
9 address issues concerning payment obligations. While Covad has characterized Issue 10 as
10 focusing on "billing" issues, Issue 10 (and Section 5.4 of the agreement) is more
11 appropriately described as "payment" issues: Section 5.4 relates to the obligation of the
12 billed party to make payments and to the billing party's recourse in the event of non-
13 payment.

14 **Q. BY WAY OF BACKGROUND, DOES THE PAYMENT LANGUAGE IN THE**
15 **AGREEMENT APPLY TO BOTH PARTIES?**

16 A. Yes. The language at issue in this interconnection agreement applies to both parties since
17 the agreement anticipates that either party may provide services to the other and be entitled
18 to payment for the services provided. One of the unique aspects of Qwest's relationship
19 with Covad, however, is that Covad does not provide any services to Qwest.
20 Consequently, Covad is likely not concerned about the terms governing payment for

¹ Covad does not break this disputed issue into separate subparts. I do so here so that the precise language and

1 services rendered to Qwest. This perhaps explains why Covad is so aggressively seeking
2 to put off the time for paying its bills as well as the time when Qwest can take action to
3 protect itself from further business risk by discontinuing the processing of new orders and
4 disconnecting service. Covad's proposed extended times are at odds with standard and
5 commercially-reasonable practice, and would improperly require Qwest to continue to
6 provide services (without compensation) to Covad for extended periods even though Covad
7 does not even dispute the amounts due.

8 **III. DISPUTED ISSUE NO. 10-1: DUE DATES FOR AMOUNTS PAYABLE**

9 **Q. PLEASE EXPLAIN DISPUTED ISSUE 10-1.**

10 A. Issue 10-1 relates to Section 5.4.1 of the interconnection agreement, which specifies the
11 number of days Covad has to pay its bills.

12 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR SECTION 5.4.1?**

13 A. Qwest proposes the following language:

14 5.4.1 Amounts payable under this Agreement are due and payable within
15 thirty (30) calendar Days after the date of invoice, or within twenty (20)
16 calendar Days after receipt of the invoice, whichever is later (payment due
17 date). If the payment due date is not a business day, the payment shall be
18 due the next business day.

19 **Q. HOW DOES COVAD'S PROPOSED LANGUAGE DIFFER FROM QWEST'S**
20 **PROPOSED LANGUAGE?**

dispute related to each subpart is identified and addressed.

1 A. Covad proposes that amounts payable be due and payable within 45 days, rather than the
2 30 days Qwest is proposing.

3 **Q. WHY DOES QWEST BELIEVE THAT 30 DAYS IS A MORE APPROPRIATE**
4 **TIME PERIOD?**

5 A. The 30 day time period balances Covad's need for sufficient time to analyze monthly bills
6 and issue payment with Qwest's right to timely compensation for services rendered. This is
7 the same 30 day time period that is in the current interconnection agreement between
8 Qwest and Covad, under which the parties have been operating since early 1999. This is
9 also the same 30 day time period in Qwest's SGAT, in numerous interconnection
10 agreements with CLECs, as well as in Qwest's FCC access tariff (FCC No. 1) and the
11 Qwest Utah Access Service Tariff.

12 **Q. WOULD COVAD'S PROPOSAL HAVE AN IMPACT ON QWEST'S CASH**
13 **FLOW?**

14 A. Yes. Under Covad's proposal, Qwest would be receiving payment of the undisputed
15 amounts 15 days later than it currently does and would be deprived, therefore, of use of this
16 money for 15 days. Covad's proposal amounts to a 15-day interest free loan from Qwest
17 to Covad.

18 **Q. WHAT IF THERE IS A DISPUTE OVER A CHARGE ON THE BILL? IS THE**
19 **BILLED AMOUNT STILL DUE WITHIN 30 DAYS?**

1 A. No. The agreed to language in Section 5.4.4 of the agreement discusses in detail how
2 disputed amounts are to be handled, stating that the undisputed portions of the bill shall be
3 paid. If a portion of the bill is disputed and the dispute is resolved in favor of the billed
4 party, the disputed amount and associated interest will be credited or paid to the billed
5 party. Conversely, if the dispute is resolved in favor of the billing party, the disputed
6 portion of the bill becomes due and late payment charges are applied. The language in
7 Sections 5.4.4 and 5.18.5 also allows the billed party to dispute a charge at a later date if it
8 should discover an error after the bill has been paid.

9 **Q. HOW DOES QWEST'S LANGUAGE FOR THE PAYMENT PERIOD COMPARE**
10 **WITH THE LANGUAGE THAT IS IN QWEST'S UTAH SGAT?**

11 A, Qwest's proposed language for Section 5.4.1 of the agreement is identical to the language
12 that is contained in Qwest's Utah SGAT.

13 **Q. WAS THIS ISSUE ADDRESSED DURING THE 271 WORKSHOPS?**

14 A. Yes. During the 271 workshops, in which Covad actively participated, the issue of
15 allowing adequate time to analyze monthly bills was discussed at length. Many of the
16 concerns that Covad raises in this case were thoroughly discussed during these workshops.
17 Ultimately, all issues pertaining to the appropriate time frame for payment, including the
18 timing of discontinuance of orders and disconnection of service which are discussed in
19 more detail below, were resolved and the resulting consensus language is the same as that
20 proposed by Qwest herein. Furthermore, in its recently negotiated Commercial Line

1 Sharing Agreement with Qwest, Covad agreed to payment, discontinuance and
2 disconnection terms which are identical to those proposed by Qwest in this proceeding.

3 **Q. IN PROCEEDINGS IN OTHER STATES, COVAD HAS ARGUED THAT THE**
4 **PAYMENT LANGUAGE AGREED TO IN THE 271 WORKSHOPS IS**
5 **IRRELEVANT HERE. HOW DO YOU RESPOND?**

6 A. I disagree. The 271 proceedings were structured to facilitate an in-depth discussion of the
7 “general terms and conditions” of Qwest’s SGAT. The issue of allowing sufficient time to
8 analyze bills and the issue of the appropriate payment due date were discussed at length by
9 Covad and other CLECs during the General Terms and Conditions workshops. The
10 outcome of these discussions was consensus billing and payment language, which is the
11 same language that Qwest is proposing for the parties’ interconnection agreement.

12 While it has been several years since the 271 workshops that resulted in this consensus
13 language, there are no intervening facts or circumstances that support any change in the
14 payment language. To the contrary, Qwest and Covad have been operating under the same
15 30 day time period for the payment of bills since early 1999. Just as Covad did not object
16 to the 30 day payment due date consensus language during the 271 proceedings, it has not
17 identified any problems with this time period during the course of the parties’ business
18 operations under their existing interconnection agreement.

19 **Q. IN OTHER STATES COVAD HAS ARGUED THAT QWEST IS LIKELY TO BE**
20 **MORE CONCERNED NOW THAN IT WAS DURING THE 271 PROCEEDINGS**
21 **OVER PAYMENT ISSUES GIVEN THE STATE OF THE INDUSTRY AND**

1 **SEVERAL HIGH PROFILE CASES IN WHICH CLECS HAVE FAILED TO PAY**
2 **QWEST FOR SERVICES. HOW DO YOU RESPOND?**

3 A. The proper focus of this arbitration dispute is whether the Commission should adopt
4 Covad's request to deviate from current industry practice. The industry standard (30 days)
5 is commercially reasonable and balances the legitimate business interests and concerns of
6 the parties. The fact that a number of CLECs have failed to pay Qwest for services that
7 Qwest has provided to them, leaving Qwest with hundreds of thousands of dollars in
8 uncollectible receivables, underscores the legitimacy of the language Qwest proposes here
9 and undermines Covad's argument for *extending* the amount of time within which Covad
10 (and CLECs opting in to this agreement) may withhold payment for services they have
11 received from Qwest and do not dispute they owe Qwest. Covad's proposal would delay
12 Qwest's ability to take commercially-reasonable protective action and exacerbate the risk
13 to Qwest of non-recovery.

14 **Q. HAVE OTHER CLECS AGREED TO THE SAME LANGUAGE QWEST**
15 **PROPOSES HERE?**

16 A. Yes. For example, AT&T/TCG recently completed interconnection negotiations with both
17 parties agreeing to the payment language that Covad challenges here. Not surprisingly,
18 since this language was agreed upon with the CLEC community, numerous CLECs are
19 operating under this payment language here and across Qwest's service territory. In Utah,
20 7 CLECs have opted into the Utah SGAT which contains Qwest's proposed payment
21 language.

1 **Q. WHAT ABOUT COVAD'S ARGUMENTS THAT IT NEEDS MORE TIME TO**
2 **ANALYZE AND PROCESS QWEST'S BILLS?**

3 A. These arguments are belied by the fact that Covad has had years of experience with
4 Qwest's bills and has had ample opportunity to raise any specific concerns about its ability
5 to efficiently analyze and process these bills within the time frame allotted for payment.
6 Through years of experience with Qwest's bills, Covad should have acquired sufficient
7 familiarity and expertise with Qwest's bills to analyze them promptly and efficiently or to
8 seek appropriate business solutions to any general or specific billing problems it might
9 identify.

10 **Q. IN ITS PETITION FOR ARBITRATION, COVAD NOTES THAT "WHILE SOME**
11 **BILLS ARE SENT IN ELECTRONIC FORMAT, OTHERS ARE SENT IN PAPER**
12 **FORMAT ONLY." PLEASE COMMENT.**

13 A. Although the statement is technically correct, Covad omits that the vast majority of
14 Qwest's billing is done electronically. In the case of UNE/Resale, a paper bill is still the
15 official bill of record. However, in addition to the paper bills, Covad receives electronic
16 files for the UNE/Resale bills which provide it with the information that it needs to analyze
17 and review the bills. The only other paper bill Covad is currently receiving is out of the
18 BART system for one-time/non-recurring charges related to collocation. This one-
19 time/non-recurring charge for collocation represents only about **CONFIDENTIAL:**
20 **END CONFIDENTIAL** of Covad's total monthly billed amounts

1 **Q. APPROXIMATELY HOW MANY PAGES OF BART BILLING DOES COVAD**
2 **RECEIVE EACH MONTH FROM QWEST?**

3 A. In total, for *all* the Qwest states in which it operates, Covad receives approximately
4 **CONFIDENTIAL: END CONFIDENTIAL** pages of BART billing per month.

5 **Q. DOES QWEST HAVE PERSONNEL WHO ARE AVAILABLE TO EXPLAIN ITS**
6 **BILLS TO COVAD AND TO ASSIST WITH ANY BILLING INQUIRIES FROM**
7 **COVAD?**

8 A. Yes. Qwest has a staff of Service Delivery Coordinators whose responsibilities include
9 explaining CLEC bills and answering any questions a CLEC might have about the bills.
10 Qwest has three Service Delivery Coordinators who have been designated to work with
11 Covad.

12 **Q. DOES QWEST HAVE INCENTIVES TO ENSURE THAT ITS BILLS ARE**
13 **ACCURATE?**

14 A. Yes, it does. There are performance measures related to billing completeness and accuracy
15 that are a part of Qwest's Performance Assurance Plan. To the extent billing is inaccurate,
16 there are penalty payments assessed to Qwest. It is in the best interest of both Qwest and
17 Covad that Qwest's bills are complete and accurate.

18 **Q. HAS COVAD HAD DIFFICULTY MEETING THE 30 DAY DUE DATE IN THE**
19 **PAST?**

20 A. No. Qwest's experience has been that Covad pays its bills within the 30 day payment due
21 date.

1 **Q. IN ARBITRATION PROCEEDINGS HELD IN OTHER STATES, COVAD**
2 **ARGUED THAT SINCE COVAD HAD A GOOD BILLING RELATIONSHIP**
3 **WITH QWEST, QWEST SHOULD NOT BE CONCERNED ABOUT EXTENDING**
4 **PAYMENT TIME FRAMES. DO YOU AGREE?**

5 A. No. Given the rights of other CLECs to opt into this new Qwest-Covad interconnection
6 agreement, any CLEC could choose to receive the extended time frames advocated by
7 Covad here.² As a result, Covad's prior payment performance is not the relevant factor in
8 determining whether it is appropriate to require Qwest to continue to provide services for
9 extended periods even though the bill is undisputed. Further, Covad's prior payment
10 performance may not be predictive of Covad's future payment performance. While Covad
11 cites its prior payment performance as a reason why Qwest need have no concerns about
12 Covad, it simultaneously argues for significant extensions of time frames within which
13 Qwest would have no remedy for Covad's nonpayment.

14 **Q. COVAD HAS STATED IN PREVIOUS PROCEEDINGS THAT IT PLANS TO**
15 **PARTNER WITH OTHER CLECS TO PROVIDE LINE SPLITTING AND LOOP**
16 **SPLITTING SERVICES. IS THIS SUFFICIENT REASON FOR COVAD TO**
17 **HAVE EXTENDED TIME TO PAY FOR SERVICES IT ORDERS FROM**
18 **QWEST?**

19 A. No. Covad has apparently chosen to change its business strategy and to partner with other
20 CLECs to provide line splitting or loop splitting services. This is, however, no justification

1 for requiring *Qwest* to assume additional risk and deferred payment as a result of a change
2 in Covad's business strategy that does not involve Qwest. That Covad's plans to partner
3 with other CLECs may require significant billing coordination between Covad and its new
4 business partners is an issue that must be addressed by Covad and those new business
5 partners. Covad and its new business partners have no incentive to adopt efficient billing
6 arrangements or to sort out billing issues between themselves if payment to *Qwest* for the
7 services ordered from Qwest can be deferred and the business costs and risk of nonpayment
8 shifted to Qwest.

9 **Q. DO OTHER QWEST CUSTOMERS OPERATE UNDER PARTNERSHIP**
10 **ARRANGEMENTS SIMILAR TO WHAT COVAD MAY BE CONTEMPLATING?**

11 A. Yes. Qwest currently has a number of customers purchasing Line Splitting, a product
12 which allows one company to provide voice service and another company to provide data
13 service over the same line. These customers are operating under the same 30 day payment
14 terms that Covad is disputing here.

15 **Q. WHAT IS COVAD'S PAYMENT POLICY FOR ITS END-USER CUSTOMERS?**

16 A. When billing its customers, Covad uses the same 30 day period that Qwest is proposing to
17 use. Attached as Exhibit WRE-1 is a page from Covad's website:
18 <http://www.covad.com/onlinesupportcenter/resources/explainer/invoice.shtml>. This page

² Although the FCC recently eliminated the "pick and choose" option, under FCC rules any carrier may still opt into an interconnection agreement in its entirety, thereby taking advantage of the payment terms, including timing of discontinuing orders and disconnecting service, advocated by Covad in this proceeding.

1 contains a sample Covad bill which indicates that the payment due date is 30 days after the
2 invoice date.

3 Covad serves its customers through services it purchases from Qwest. Hence, even as
4 Covad receives payment from its own customers in 30 days for services that include
5 services provided by Qwest, Covad seeks to extend by 50% the amount of time when
6 Covad itself must pay Qwest for these services.

7 **IV. DISPUTED ISSUE NO. 10-2: TIMING FOR DISCONTINUING ORDERS**

8 **Q. PLEASE EXPLAIN DISPUTED ISSUE 10-2.**

9 A. Issue 10-2, which relates to Section 5.4.2 of the interconnection agreement, has to do with
10 the period of time the billing party must wait before discontinuing processing orders in
11 cases of non payment.

12 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR SECTION 5.4.2?**

13 A. Qwest is proposing the following language:

14 5.4.2 One Party may discontinue processing orders for the failure of the
15 other Party to make full payment for the relevant services, less any
16 disputed amount as provided for in Section 5.4.4 of this Agreement, for
17 the relevant services provided under this Agreement within thirty (30)
18 calendar Days following the payment due date. The Billing Party will
19 notify the other Party in writing at least ten (10) business days prior to
20 discontinuing the processing of orders for the relevant services. If the
21 Billing Party does not refuse to accept additional orders for the relevant
22 services on the date specified in the ten (10) business days notice, and the
23 other Party's non-compliance continues, nothing contained herein shall
24 preclude the Billing Party's right to refuse to accept additional orders for

1 the relevant services from the non-complying Party without further notice.
2 For order processing to resume, the billed Party will be required to make
3 full payment of all charges for the relevant services not disputed in good
4 faith under this Agreement. Additionally, the Billing Party may require a
5 deposit (or additional deposit) from the billed Party, pursuant to this
6 section. In addition to other remedies that may be available at law or
7 equity, the billed Party reserves the right to seek equitable relief including
8 injunctive relief and specific performance.

9 **Q. HOW DOES QWEST'S LANGUAGE DIFFER FROM COVAD'S PROPOSED**
10 **LANGUAGE?**

11 A. Under the Covad proposal, the billing party (Qwest) would have to wait 90 days, not 30,
12 following the payment due date before it could discontinue processing orders.

13 **Q. WHY DOES QWEST OPPOSE COVAD'S PROPOSED 90 DAY PERIOD?**

14 A. Qwest is entitled to timely payment for services rendered and to take remedial action if risk
15 of non-payment is apparent. Under Qwest's proposal, an invoice is not due and payable
16 until 30 days after the invoice date and Qwest cannot take action until another 30 days after
17 that. Since Qwest renders some of its services in the month *before* the invoice date, under
18 the Qwest proposal, Qwest will wait to take action until nearly three months after it has
19 provided the service. Under the Covad proposal, Qwest would be required to wait 135
20 days after the invoice date (45 days to payment due date plus an additional 90 days) before
21 Qwest could take action in cases of non-payment. Taking into account the fact that the
22 service may have been rendered in the month prior to the invoice date, Covad proposes that
23 Qwest wait almost six months after the service was provided before it may discontinue
24 processing new orders. Qwest should not have to wait nearly six months to take action in
25 cases of failure to make payment *for undisputed charges*. Every day of delay may result in

1 additional bad debt, and imposes additional cash flow costs upon Qwest. Because the
2 discontinuance applies only to *undisputed charges*, there is no basis for requiring Qwest to
3 continue to provision services to Covad long after Covad has ceased paying Qwest for
4 services that Qwest has already provided and that Covad does not dispute have been
5 properly billed.

6 **Q. WAS THIS ISSUE ADDRESSED IN THE 271 PROCEEDINGS?**

7 A. Yes. During the 271 proceedings in which Covad actively participated, this issue was
8 discussed at length. Ultimately the Commission approved the consensus SGAT language
9 providing the 30 day time period Qwest advocates in this case.

10 **Q. IS THERE ANY BASIS FOR TRIPLING THE AMOUNT OF TIME THAT QWEST**
11 **MUST WAIT BEFORE IT MAY PROTECT ITSELF BY DISCONTINUING**
12 **PROCESSING ORDERS FOR NONPAYMENT?**

13 A. No. Covad identifies no new facts or circumstances requiring Qwest to continue to process
14 new orders for this extended period of time during which it is *undisputed* that Covad owes
15 Qwest for services that Qwest provided to Covad months earlier. The CLEC community
16 agreed during the 271 process that the thirty day period strikes the proper balance between
17 CLECs' interests and Qwest's. Qwest's proposed language carries forward that balance
18 whereas Covad's proposed language, without justification, shifts to Qwest enormous
19 additional risk of never being paid for the services it provides.

1 **Q. WHAT TIMING FOR DISCONTINUING ORDERS DID AT&T/TCG AND**
2 **QWEST AGREE UPON IN THEIR RECENT INTERCONNECTION**
3 **NEGOTIATIONS?**

4 A. AT&T/TCG and Qwest agreed to the same 30-day period that Qwest is proposing in this
5 proceeding. This 30-day period is in Qwest's SGATs and in numerous interconnection
6 agreements.

7 **V. DISPUTED ISSUE NO. 10-3: TIMING FOR DISCONNECTING SERVICES**

8 **Q. PLEASE EXPLAIN DISPUTED ISSUE 10-3.**

9 A. Issue 10-3, which relates to Section 5.4.3 of the interconnection agreement, has to do with
10 the period of time the billing party must wait before disconnecting service in cases of non-
11 payment.

12 **Q. WHAT LANGUAGE IS QWEST PROPOSING FOR SECTION 5.4.3?**

13 A. Qwest proposes the following language:

14 5.4.3 With the Commission's permission, the Billing Party may
15 disconnect any and all relevant services for failure by the billed Party to
16 make full payment, less any disputed amount as provided for in Section
17 5.4.4 of this Agreement, for the relevant services provided under this
18 Agreement within sixty (60) calendar Days following the payment due
19 date. The billed Party will pay the applicable reconnect charge set forth in
20 Exhibit A required to reconnect each resold End User Customer line
21 disconnected pursuant to this paragraph. The Billing Party will notify the
22 billed Party at least ten (10) business days prior to disconnection of the
23 unpaid service(s). In case of such disconnection, all applicable undisputed
24 charges, including termination charges, shall become due. If the Billing
25 Party does not disconnect the billed Party's service(s) on the date specified

1 in the ten (10) business days notice, and the billed Party's noncompliance
2 continues, nothing contained herein shall preclude the Billing Party's right
3 to disconnect any or all relevant services of the non-complying Party
4 without further notice. For reconnection of the non-paid service to occur,
5 the billed Party will be required to make full payment of all past and
6 current undisputed charges under this Agreement for the relevant services.
7 Additionally, the Billing Party will request a deposit (or recalculate the
8 deposit) as specified in Section 5.4.5 and 5.4.7 from the billed Party,
9 pursuant to this Section. Both Parties agree, however, that the application
10 of this provision will be suspended for the initial three (3) Billing cycles of
11 this Agreement and will not apply to amounts billed during those three (3)
12 cycles. In addition to other remedies that may be available at law or
13 equity, each Party reserves the right to seek equitable relief, including
14 injunctive relief and specific performance.

15 **Q. HOW DOES THIS DIFFER FROM COVAD'S PROPOSED LANGUAGE?**

16 A. Under Covad's proposal, Qwest would have to wait 120 days, not 60, after the due date
17 before it could begin disconnecting service in cases of non-payment.

18 **Q. WHY DOES QWEST OPPOSE THE 120 DAY PERIOD?**

19 A. As I have discussed above, Qwest is entitled to timely payment for services rendered and to
20 take remedial action if the risk of non-payment is apparent. Under the Qwest proposal,
21 Qwest could not begin disconnection until 90 days after the invoice date (30 days to
22 payment due date plus 60 days before disconnection). The additional two months
23 requested by Covad significantly increases Qwest's financial exposure. Under the Covad
24 proposal, it would be 165 days after the invoice date (45 days to payment due date plus and
25 additional 120 days) before Qwest could disconnect services in cases of non-payment.
26 Taking into account the fact that the service itself may have been rendered in the month
27 prior to the invoice date, this is almost seven months after the service was provided. This
28 is an unreasonable amount of time. Again, the disconnection timing at issue here applies

1 only to undisputed amounts. Disputed amounts are handled pursuant to the language in
2 Section 5.4.4, as I described earlier.

3 **Q. IN ITS PETITION COVAD ARGUES THAT EXTENDING THE TIME IS**
4 **CRITICAL GIVEN THE SEVERE CONSEQUENCES. HAS QWEST EVER**
5 **DISCONTINUED TAKING COVAD ORDERS OR DISCONNECTED SERVICE?**

6 A. No.

7 **Q. WAS THIS ISSUE ALSO ADDRESSED IN THE 271 WORKSHOPS?**

8 A. Yes. During the 271 workshops, this issue was also discussed at length. Ultimately, the
9 issue was resolved with Covad and other CLECs agreeing upon the 60 day proposal that
10 Qwest is making in this case.

11 **Q. WHAT SERVICE DISCONTINUANCE LANGUAGE DID AT&T/TCG AND**
12 **QWEST AGREE TO IN THE RECENT INTERCONNECTION NEGOTIATIONS?**

13 A. AT&T/TCG and Qwest agreed to the same language that Qwest proposes in this
14 proceeding. Again, the 60 days that Qwest proposes is consistent with Qwest's SGATs and
15 numerous interconnection agreements.

16 **Q. WHAT IS COVAD'S DISCONNECTION POLICY FOR ITS END USER**
17 **CUSTOMERS?**

18 A. Attached as Exhibit WRE-2 is a copy of the Covad Customer Service Policies, which are
19 posted on Covad's website:

1 <http://www.covad.com/onlinesupportcenter/resources/legal/docs/Customer>
2 [Policies_Direct_030104.pdf](http://www.covad.com/onlinesupportcenter/resources/legal/docs/Customer)

3 Page 16 of Covad's policy states that: "If Customer fails to pay any bill when due, Covad
4 shall have the right to terminate the services and charge any disconnection and/or early
5 termination fee that would apply if Customer had elected to terminate the Services."
6 Unlike the language Covad proposes here, this language does not require Covad to wait for
7 any period past the due date before it disconnects services.

8 **VI. SUMMARY/CONCLUSION**

9 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

10 A. The payment issues that Covad now disputes were addressed at length by Covad and other
11 CLECs during the 271 process. The payment deadline and the timing for taking protective
12 action that Qwest proposes for the parties' interconnection agreement are identical to the
13 times that were agreed to in the 271 process and that are in Qwest's Utah SGAT. No new
14 facts or circumstances support the deviations that Covad proposes. Covad's proposals
15 would, if accepted, place Qwest at additional risk of not being paid for the services it
16 renders. Because Qwest's payment language is commercially reasonable, is the result of
17 consensus reached during the 271 process and balances the needs of both the billed and
18 billing parties, Qwest respectfully submits it should be adopted in this arbitration
19 proceeding.

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

21 A. Yes, it does.