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July 26, 2010

Carol Hulse
Oregon Public Utilities Commission
550 Capitol St., NE, Ste. 215
Salem, OR 97301

Re: ARB 918

Enclosed for filing, please find an original and five copies of North County Communication's Responsive Testimony of Todd Lesser.

Very truly yours,

McNamer and Company

s/Anthony McNamer/

Anthony McNamer

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF OREGON**

In the Matter of
QWEST CORPORATION
Petition for Arbitration and Approval of an
Interconnection Agreement with
NORTH COUNTY COMMUNICATIONS
CORPORATION OF OREGON.

ARB 918

RESPONSIVE TESTIMONY OF TODD LESSER

DATE: JULY 26, 2010

RESOPONSIVE TESTIMONY OF TODD LESSER

Q: Please state your name and business address.

A: My name is Todd Lesser. My business address is 3802 Rosecrans Street, No. 485, San Diego, California 92110. My telephone number is (619) 364-4750.

Q: Have you read the testimony of Philip Linse and Renee Albersheim submitted by Qwest?

A: Yes

Q. Is Mr. Linse qualified to answer questions about the Central Office Capabilities of Qwest?

A. No. As Mr. Linse testified in the WPUC hearing, he has never actually programmed or installed a live central office. His only experience is in training programs he took at Qwest. He has no actual real world experience.

Q: When you were negotiating with Qwest, did you feel that they were providing the correct technical responses to your inquiries?

A: No. It was clear from my conversations with Qwest on the conference calls, that they only has a limited understanding of the capabilities of a central office switch and/or trunk monitoring equipment. I assume that Mr. Linse was their technical expert.

Q. What were they telling you that was incorrect?

A: They said they could only take PEG counts and couldn't keep track of actually calls and minutes sent to our trunk groups.

Q: Is Mr. Linse correct that they can only monitor PEG counts and total usage?

A: Absolutely not. Let me explain. A PEG counter is a simplistic way to just count calls and call totals. What Mr. Linse apparently was never taught, is that all Central Office (CO's) on the Qwest network follow the Telecordia Document LSSGR (LATA Switching System Generic Requirements.) One of those requirements is the switch has a CDR (Call Detail Recording). In other words, every outbound and inbound call that is made or received is electronically recorded with all the call details.

Q. Is this a new requirement?

A. No. This has been around since the first electronic switches in the early 60's. There is no reason why they can't do it on local interconnection trunks.

Q. Can't Qwest provide ANI on MF trunk groups?

A. Yes. This is a simple Class Of Service option on the trunk group. Qwest gives us ANI on our MF long distance trunks. Other ILECs have given us ANI on our local interconnection trunks. In fact, I just turned up a trunk group this week with another carrier that gave us ANI over MF for local traffic.

Q. Qwest has stated that the ICA only defines ANI as a Feature Group D long distance trunk, so they aren't "required" to provide it to you for your local trunks. What are your thoughts on this?

A. First, ANI stands for "Automatic Number Identification." The definition wasn't that well worded in the agreement but this is an industry standard term. The definition simply said ANI is used in Feature Group D signaling. It never said ANI can't be provided in other signaling formats. For example, you can get ANI on ISDN. ISDN isn't Feature Group D format. Under the existing agreement, Qwest delivers ANI if you have SS7. The way they are attempting to define it now would mean that you shouldn't get ANI over SS7 local interconnection trunks – you should only get ANI over SS7 Feature Group D long distance trunks.

Q. Does this definition dispute trouble you?

A. Absolutely. This is why the Commission shouldn't allow them to just scrap our existing agreement. Even if the Commission agrees with Qwest, that certain things should be added, they should be added to our existing agreement. Qwest is unwilling to state all the material changes to the agreement or how they will interpret it differently than the existing agreement. I lost an arbitration with Verizon in Oregon over this exact issue. I felt the language in our agreement was as clear as day; Verizon was required to pay for all traffic – including ISP traffic. The judge ruled that Verizon felt they should never have to pay for ISP

traffic. Under Oregon law, you are required to have a meeting of the minds for there to be a contract. Since there was no meeting of the minds, we had no contract and the judge ruled they didn't have to pay. I can't guess by reading Qwest's new agreement how they interpret every provision. _-Although, I know how they have interpreted our existing agreement for 13 years. _-The Commission can't change Oregon law and they don't arbitrate the contract disputes.

Q. Is Mr. Linse correct that SS7 is more reliable than MF?

A. Absolutely not. He obviously isn't aware of some of the well-publicized SS7 outages across the country. For example, on June 26, 1991, over six million Bell Atlantic lines were cut off for seven hours in Washington, DC, Maryland, Virginia and West Virginia. Pacific Bell had an outage of three and a half million lines on the same day for a few hours. This was all caused by one SS7 problem in Baltimore, Maryland where a bad circuit board disabled the whole network. SS7 has single points of failure. If your SS7 links or your STP fails, your entire network goes down. With MF signaling, each call receives the call routing direction on that specific trunk. If you have a problem, only one trunk or T1 goes down – not your whole network. In fact, many carriers around the country use MF signaling for 911 trunks even when the rest of their network is SS7. MF signaling is much more reliable than SS7 signaling.

Q. In thirteen years, has North County ever had an outage with Qwest in

with its MF trunks?

A. No.

Q. Does MF equipment and circuits require more maintenance as Mr. Linse describes?

A. What Mr. Linse fails to tell you is that when you dial a telephone number at your house, the touch tones are in band signaling. The interoffice MF trunks are just a different set of tones. In the 60's there use to be transistorized MF transmitters and receivers. Today, they are all done with DSPs (Digital Single Processors.). Those don't have issues. If fifteen years, we have never had a DSP card go bad.

Q. Does MF limit the number of carriers or the size of the recording capability in comparison to SS7?

A. No. This makes no sense what so ever. Whether the signaling for call set up is sent in band or out of band with SS7, you still need to record it. In fact, SS7 has a lot more parameters to record.

Q. Is SS7 recording more accurate?

A. No. In fact, in one jurisdiction, we proved that the SS7 recordings were incorrect by swapping call detail recording from our central office switch. The SS7 recordings weren't recording all the calls because the instructions the

monitor was given wasn't correct. CDR (Call Detail Recordings) from MF trunks are so simple, you don't have problems like that.

Q: Though Qwest has refused to provide you with any indication of the substantive changes that they made, what specific issues do you know exist with the proposed ICA?

A: As mentioned, the proposed ICA illegally attempts to force NCC to switch to SS7. It also places an arbitrary cap on the number of minutes that NCC can bill Qwest (240,000). Further, its formula for the relative use factor (RUF) that has no bearing on actual relative use. Finally, Qwest attempts to define VNXX when that definition

Q: So how would you change these areas?

A: I would revert back to the original language used in the current ICA which did not penalize or otherwise limit NCC from using MF technology, did not place a cap on the number of billable minutes, use a RUF based on actual usage, and omit all language regarding VNXX.

A. Ms. Albersheim testifies that North County delayed the negotiations. Is that accurate?

A. No. If anyone delayed the negotiations it was Qwest. We asked Qwest numerous times for them to have people on the conference calls that had the technical knowledge to answer all the technical questions. They refused. We

asked them to have someone on the call who had authority to make an agreement. They refused. Each time, they had to go back to talk it over with someone else or another organization. We asked them for redline versions and reasons why they wanted to make the changes. They refused. On the first phone call, I told them about a company in Massachusetts that because they signed a new agreement with Verizon, it put them out of business because of the shift in the cost of the circuits (RUF). It took them two years to finally disclose that there were more material changes than just, "updating definitions." This is just one example of the delay and disinformation tactics that Qwest used. I question how many other material changes there are that they aren't disclosing. It is a telltale sign that they are not willing to say what the material changes are.

Q. Is Ms. Albersheim's description of the negotiation process accurate.

A. No, they only provided their side of the story after they refused to work with us. First, Qwest never had the people on the conference calls that had signing authority. Each time you brought up even a minut change, they had to go speak to someone else. This made it very difficult to negotiate. Second, they said it was their way or the highway. We had to use their template and nothing else. They wouldn't use our existing agreement, they wouldn't use an agreement that NCC had, they wouldn't use our

existing with AT&T or Verizon as a template. They simply refused to negotiate unless we used their agreement as the template. Third, their e-mails are totally out of context. If the commission would like, I can give them all the e-mails.

Q. Does it matter that 95 other CLEC's opted into the Qwest agreement.

A. First, there are 29 CLECs that did not opt into Qwest's form ICA. Second, it is likely that most of the CLECs decided it was not worth spending the money on arbitration to fight Qwest, who has unlimited resources. Finally, I would be curious how many CLEC's still are using our exact same agreement.

Q. Mr. Linse says that other CLECs interconnect with Qwest using MF.

Why would they still keep their MF trunks if SS7 is so much more reliable?

A. They wouldn't. They keep them as a back up in case their SS7 links go down. Most small CLEC's order their SS7 links from companies such as Verisign/TNS. These links costs thousands of dollars. Qwest can afford to have more than two links. Small CLECs, if they have a need to go to SS7, only order two. This makes it less reliable. In other words, if two circuits go down, your entire network goes down. If we were forced to switch to SS7, we would lose money on the costs of the link alone.

Q. Ms. Albersheim stated the process that Qwest has to go through to investigate billing issues. Is she accurate?

A. No. Qwest is purposely tying one hand behind its back. Their switches have

the capability to track MF calls. Further, if they would provide us an ANI on each call in MF, we could give them EMI (Exchange Message Interface) records of every call. They simply refuse to do so and then say: "we can't track calls." The truth is they choose not to track MF calls. It is simply a choice on their part and since the original agreement was for MF calls, and since we built our entire network around their original agreement, as between Qwest putting the effort into tracking MF calls or North County completely scrapping its entire network and converting to SS7, it is Qwest that should bear the burden of its choice to change its technology.

Q. Are you saying that if they provided you with ANI on your interconnection trunks that you could give them all the information they need to validate the billing and address all their concerns?

A. Absolutely. It is a common practice in the industry to swap or provide EMI files if there is a billing dispute. But instead of doing this they want to put an arbitrary cap on my billable minutes. Those lines can handle a million minutes but Qwest wants to only pay for the first 240,000 and get the rest of the minutes for free (while still billing their own clients for these minutes they refuse to reimburse us for).

Q. What would it cost them to provide you the ANI?

A. Nothing. It is just a Class of Service change on our trunk group. They simply type a few commands into the computer.

Q. Ms. Albersheim testifies that Qwest can't track the minutes. Is she qualified to say this?

A. She appears to be a lawyer and billing person, not a technical person. She is just repeating what other people have told her.

Q. Ms. Albersheim mentioned the methodology that was used to create the billing. Is she telling the whole story?

A. Absolutely not. I will try to not over simplify it. There are three general types of calls that come over our trunk groups: Local, Switched Access (intralata toll or interlata toll), and Transit Calls. Qwest provides us with a billing tape of all the toll calls from long distance carriers and the transit records from wireless carriers and CLECs. The rest of the calls are from Qwest or small rural local exchange carriers that subtend their tandem. Qwest then only pays a percentage of this amount – not the entire amount reflected in the records. Because they refuse to provide us ANI, we are unable to validate the percentage they tell us. Indeed, during negotiations, we discovered their analysis was completely baseless. For example, in Tucson, Qwest was only paying us for 74% of the calls. Qwest told us that there were other carriers that connected up to them that weren't being tracked. This was completely false. There isn't a single rural local exchange carrier in the local Tucson area. In Phoenix, they were only paying us for 58% of the local calls. We discovered that Qwest covers over 99% of the Phoenix area and that there were only a few

small Indian reservations that had very few people living there. Clearly this didn't justify only paying for only 58% of the calls. We are still working with Qwest to resolve these billing issues.

Q. Ms. Albersheim mentions that Qwest can't bill North County for outbound calls because of MF. Is this true?

A. Qwest bills usage on our MF long distance trunks, and other carriers who have the same switches as Qwest bill us for outbound calls. I am at a loss at why Qwest is saying it can't do it.

Q. Is Qwest requiring the rural ILEC's convert to SS7 to interconnect with them?

A. No. Frankly, nothing in the Telecom Act allows them to dictate that the trunks would be configured using SS7. Again, they are the ones who decided to change their trunks from the MF trunks we both were using when we interconnected. Now they want to force us to convert to their technology and now claim that it's imperative even though for almost 14 years there were almost no issues with MF signaling. Indeed, Mr. Linse admits that Qwest finally completed their conversion to SS7 in their last central offices on April 30, 2010 – a couple months ago. So they literally sought to require our conversion before their conversion was even complete. In addition, I suspect by the way they answered the discovery questions (or more accurately, failed to answer the discovery questions) that they still have MF trunks on their network; they just

added SS7 service. As between Qwest using the resources it has to properly track MF, and North County being forced to either convert to SS7 or receive nothing for the provision of its services, equity dictates that Qwest should bear the burden of its technology choices. This is particularly true where, as here, a small CLEC built its system based on Qwest's prior requirements and the current ICA drafted by Qwest.

Q. When Qwest was demanding that you convert to SS7 to be able to make outbound calls on their network, did they still have CO's that were exclusively MF?

A. Yes. In fact they had one CO that was exclusively MF until April 30th, 2010. They wanted us to convert to SS7 two years before they did.

Q. Should that ILEC be allowed to interconnect with Qwest on a two-way basis and NCC be prohibited from interconnecting in the same fashion?

A. No. The Telecom Act is supposed to level the playing field. Qwest is not allowed to discriminate against CLECs.

Q. Qwest says that SS7 is the industry standard for interconnection. Is this correct?

A. No, it is simply one of the standards. So is MF. In fact, one of the new standards of interconnection between carriers is SIP. Qwest refuses to interconnect by SIP and VoIP (Voice over IP). SIP would also address all of

their concerns. We have the capability to interconnect by SIP. We would like to interconnect using ISDN or SIP. Qwest is also refusing to interconnect using either of these standards. Again, Qwest is simply trying to force NCC to bear the burden of Qwest's technology choices. Mr. Linse Direct Testimony in footnote 4 on page 6 it also states, "SS7 is the dominant signaling protocol in a Time Division Multiplex (TDM) network. As Internet Protocol networks carry telecommunications traffic, IP compatible signaling protocols are being developed and used for similar purposes as SS7 signaling." I assume he is quoting from a document that is ten years old. VOIP standards were developed a long time ago. AT&T, Verizon, Vonage, Time Warner Cable, Cox, Magic Jack, Skype, AOL/AIM, Google Voice and hundreds of other providers use IP. Even Qwest offer VOIP services to its customers. I believe our interconnection agreement should require Qwest to offer VOIP interconnection. It is so much more efficient than SS7 with TDM. Qwest is proposing a standard that is already behind the times. We would love to switch from MF to VOIP but Qwest is refusing.

Quoting from AT&T's web page:

Over those 15 years the character of the traffic began to evolve from voice to data. In the 1990s, data traffic increasingly adhered to new formats - packet switching, frame relay, asynchronous transfer mode (ATM) and Internet protocol - routed via newer technologies rather than over the switched voice network. In 1999, AT&T installed its 145th and last 4ESS switch in Atlanta.

Today, data services drive the network. In 2000, the volume of data traffic on the network surpassed the volume of voice traffic. Even the word "switching" is giving way, to the broader term "connectivity," in recognition that much traffic today gets routed over systems designed to direct data flows rather than voice. And this data travels in packets, mixed with other traffic, rather than over the dedicated circuits that have carried voices since the 19th century."

<http://www.corp.att.com/history/nethistory/switching.html>

Q. Does the Telecom Act allow Qwest to choose the standard they can interconnect?

A. No. Just like NCC can't force them to interconnect with me using SIP.

Q. Mr. Linse, changed his testimony since the Washington Arbitration. Do you have any insight into this?

A. Yes. In his prior testimony, he appeared to be confused between the 1984 break up of AT&T and the 1996 Telecom Act. He went back to the text books and tightened up his testimony. His only central office experience is he took one course on it. He has no infield experience. For example, after I pointed out that if MF is so unreliable, it wouldn't be used on 911 trunks. He is now trying to say that MF on 911 is somehow different because they are one way trunks versus two way trunks. There is simply no technical basis to explain why they would be reliable for one-way trunks but not reliable for two way trunks.

Q. Linse states that SS7 is necessary to record the local originating traffic from NCC. How much investigation did he do to make sure this was accurate?

A. In Washington, our attorney specifically asked him if he asked AT&T or Verizon how they can track North County's originating and terminating local

minutes. In his testimony in Washington is said he spoke to a few people that said it couldn't be done but he didn't know their names. I don't know who he spoke to but they clearly either didn't understand his questions or they were wrong. For example, North County receives bills every month for local traffic it sends to AT&T over MF trunks. We also receive a report from them every month that shows all the traffic we receive over the MF trunks. It includes all local and toll calls. It isn't simply a "Peg" count.

Q. Mr. Linse attached an Exhibit to his testimony to show that MF signals get blocked or are often busy. Have you ever had any issues with blocking of calls or busy signals?

A. No. NCC and our customers designed the network to be non-blocking. Therefore, it doesn't apply.

Q. In his testimony, Mr. Linse states that Qwest can't track jurisdictional minutes and can only tell you the total number of minutes. He said that prior to 1996 Telecom Act, that Qwest, "validating records required little more than counting the total number of minutes on each trunk and comparing this total with that of the originating switch1 record..." Is this an accurate Statement?

A. No. He was obviously told this by someone else and this is not from his own person experience. All I can say is he misunderstood what he was told. The Telecom Act of 1996, just opened up the market for CLEC's to come about.

In 1984 AT&T was broken up. This is when the Baby Bell's were created and there was equal access to long distance. USWest/Qwest didn't just add up the total number of minutes that long distance carriers had on their network when the long distance carrier had MF signaling. Qwest charged them mileage on each call. You can't do this if you are just adding up the minutes.

Q. How do you know you are correct and he is incorrect?

A. Because I personally submitted the ASR (Access Service Request) orders with Qwest for MF long distance trunks back in the early 90's. I validated the bills when they came in. In fact, I believe we may even still have some of those trunk groups around. We may even still have copies of bills.

Q. Do you have a problem with their definition of RUF and facilities?

A. Yes, it doesn't include any mux fees. A mux is necessary on their end of the circuit and on our end of the circuit. We shouldn't have to pay 100% of their mux.

Q. Do you like Qwest's definition of VNXX?

A. No, I think we should leave that language out and just agree to follow the commission's orders. Their definition is vague. Qwest offers Call Forwarding and Remote Call Forwarding services. Qwest in our Washington arbitration stated that both Call Forwarding and Remote Call Forwarding services do not fall into the category of VNXX. This

definition, could be interpreted to prohibit these product offers.

Q. Is Qwest discriminating against NCC as a CLEC in other ways?

A. Yes. They are refusing to purchase our CNAM data. In other words, when our customers call one of their customers, the name won't show up on the caller ID. This is one of the main reasons we don't send outbound calls over our interconnection trunks in Washington. We use other carriers to route the calls to Qwest. Many business customers want their name displayed on the caller ID displays of the people they call. NCC requested that Qwest buy NCC's data under the same terms and conditions Qwest was selling us its data. What I find is even more shocking, is they appear to make a distinction between an obligation to purchase CNAM data from ILEC's versus CLECs.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the foregoing document this day upon all parties of record (listed below) in these proceedings by mailing a copy properly addressed with first class postage prepaid.

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An original and five copies of the foregoing mailed to the Oregon Public Utility Commission on the date below to the following address with first class postage prepaid.

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Dated this 26th day of July, 2010, in Portland, Oregon.

Respectfully submitted,

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