

We also advise you that PCMG intends to initiate legal action against Qwest in the appropriate forum by March 6, 2003, for violations of Sections 201, 202 and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 201, 202, 251; violation of Section 2 of the Sherman Antitrust Act, 15 U.S.C. § 2; and breach of contract and breach of the covenant of faith and fair dealing, and other pendent state claims. PCMG will also seek injunctive relief to prevent Qwest from, among other things, disconnecting service to PCMG for resale to PCMG's customers and continuing to apply its unconscionable billing operations practices to PCMG as a reseller.

We note that in Qwest's Opposition to Staff's Motion for Extension of Time and Notice of Disconnection ("Opposition and Notice"), filed in this proceeding on February 19, 2003, Qwest specifically asserted its absolute right, under current Arizona law, to disconnect PCMG for nonpayment of services rendered under its interconnection agreement with PCMG, which was filed with the ACC on May 13, 2002, and approved by the ACC in Decision No. 65142 on August 11, 2002 (the "Arizona Statement of Generally Available Terms" or "Arizona SGAT Agreement"). As Qwest pointed out in its Opposition and Notice, the only laws in Arizona governing disconnection of PCMG for wholesale interconnection services are the terms of the ACC-approved Arizona SGAT Agreement. Furthermore, in its Opposition and Notice, Qwest specifically established that the ACC's rule on termination of service (R14-2-311) only applies to retail customers, not wholesale customers. Thus, Qwest specifically challenges the ACC's jurisdiction to order Qwest to continue service to PCMG pending conclusion of the above-referenced docket.

Qwest reiterated its position on this issue on the record at the pre-hearing conference on February 24, 2003, and essentially stood by its Notice of Disconnection dated February 20, 2003, in which Qwest advised PCMG that Qwest would terminate all services currently provided to PCMG beginning March 7, 2003 (see Attachment A).<sup>1</sup>

In your Order of February 25, 2003, you also specifically noted that Qwest had challenged ACC's jurisdiction to order Qwest to continue service, but you did not decide that issue in your Order; but you ordered Qwest to continue service to PCMG until March 21, 2003 without citing any legal authority. Just as Qwest challenges the ACC's jurisdiction to order Qwest to continue wholesale services to PCMG to at least March 21, 2003, PCMG challenges the ACC's jurisdiction to order PCMG to send the Notice to its affected customers on February 27, 2003. Indeed, if PCMG were to send such a Notice, it would immediately destroy PCMG's customer bases as a practical matter, and effectively drive PCMG out of business before it even had an opportunity to establish the validity of its claims against Qwest for overcharges,

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<sup>1</sup> In Qwest's Opposition and Notice, it attached a letter of February 19, 2003 to PCMG advising PCMG that Qwest would terminate all services beginning March 6, 2003. However, PCMG received the letter from Qwest dated February 20, 2003, attached as Exhibit A, stating that Qwest would terminate services beginning March 7, 2003. PCMG relies on Qwest's February 20, 2003 letter, as opposed to its February 19, 2003 letter.

The Honorable Philip J. Dion III  
Arizona Corporation Commission  
February 26, 2003  
Page 3

unreasonable discrimination in access to customer service records, and the anticompetition practices of Qwest.

PCMG does not decline to follow your Order lightly, recognizing that the ACC has jurisdiction over PCMG's operations, and respecting your position as a presiding officer in this docket and your well-intentioned effort to protect the public interest in this dispute between PCMG and Qwest. PCMG emphasizes, however, that the dispute between PCMG and Qwest is not before you either in the form of a complaint by Qwest or PCMG, nor is the interpretation or application of the Arizona SGAT Agreement before you in this proceeding. Indeed, it is clear from the record of the pre-hearing conference on February 24, 2003, that you question your jurisdiction to order Qwest to continue service to PCMG, and that you were seeking advice of Staff and the parties as to the legal basis for you to order Qwest to continue service to PCMG pending resolution of the above-referenced docket, and, likewise, any order you would issue to PCMG to advise its customers of the possibility of termination of service. As the record shows, neither the Staff nor the parties could refer you to any specific Arizona statute or administrative regulation which granted ACC the authority to order Qwest to continue service to PCMG pending resolution of this docket, or order PCMG to send the Notice. Thus, based on its research, PCMG has reached the conclusion that such legal authority does not exist.

Accordingly, PCMG cannot send such Notice to its customers on February 27, 2003, and instead will initiate the litigation referred to above against Qwest, and seek appropriate relief in such litigation, including continuation of wholesale service from Qwest for resale to its customers.

In the meantime, PCMG will continue preparing for presentation of its case in the above-referenced docket, and will observe the dates requested by the Staff in its Motion to Extend filed February 13, 2003, and which you granted.

PCMG notes that your Order of February 25 states that in the event PCMG does not issue the Notice in compliance with your Order, "Staff shall attempt to provide notice to customers of PCMG within timeframes listed above." PCMG advises the ACC and the Staff that, if necessary, PCMG will pursue legal action to prevent the Staff from issuing such notice.

Very truly yours,

  
Michael L. Glaser

MLG:clb

cc: Maureen A. Scott, Esq.  
Mark E. Brown, Esq.

The Honorable Philip J. Dion III  
Arizona Corporation Commission  
February 26, 2003  
Page 4

Christopher Kempley  
Lyn Farmer  
Ernest Johnson  
Timothy Berg, Esq.  
Theresa Dwyer, Esq.  
Jeffrey Crockett, Esq.  
Tim Wetherald



***THIS LETTER WAS SENT VIA OVERNIGHT MAIL***

February 20, 2003  
The Phone Company Management Group LLC  
3025 S Parker Road  
Aurora, CO  
80014

Dear Customer,

Re: 520-B11-5339-8117

This letter constitutes written notice of non-payment as required under your applicable contract.

This is to advise you that the required payment of \$1,505,209.07 has not been received.

Failure to pay this obligation has left us with no alternative but to terminate all services currently associated with the account listed above. Disconnection will begin on March 7th, 2003.

Please contact me at 515-558-1081 if you have any questions regarding your account or this notification.

Sincerely,  
Austin R. Ross  
Service Delivery Coordinator  
900 Keo Way 4S  
Des Moines, IA  
50309

CC: Scott Martin  
Debra Van Vlair  
Robyn White

C

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

1  
2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER

2003 MAR -3 P 3:47

AZ CORP COMMISSION  
DOCUMENT CONTROL

5 UTILITIES DIVISION STAFF,

DOCKET NO. T-03889A-02-0796  
T-04125A-02-0796

6  
7 Complainant,

8 vs.

9 LIVEWIRENET OF ARIZONA, LLC; THE PHONE  
COMPANY MANAGEMENT GROUP, LLC; THE  
10 PHONE COMPANY OF ARIZONA JOINT  
VENTURE dba THE PHONE COMPANY OF  
11 ARIZONA; ON SYSTEMS TECHNOLOGY, LLC,  
and its principles, TIM WETHERALD, FRANK  
12 TRICAMO AND DAVID STAFFORD; THE  
PHONE COMPANY OF ARIZONA, LLP and its  
13 members,

14 Respondents.

PROCEDURAL ORDER

15 **BY THE COMMISSION:**

16 On October 18, 2002, the Arizona Corporation Commission ("Commission") Utilities  
17 Division ("Staff") filed a complaint and petition for relief against LiveWirenet of Arizona, LLC and  
18 The Phone Company Management Group, LLC d/b/a The Phone Company of Arizona Joint Ventures  
19 dba The Phone Company of Arizona, On Systems Technology, LLC, and its principles, Tim  
20 Wetherald, Frank Tricamo, David Stafford Johnson, and The Phone Company of Arizona, LLC and  
21 its members (collectively "Respondents").

22 On November 14, 2002, Qwest Corporation ("Qwest") filed an Application to Intervene,  
23 which was subsequently granted by the Commission.

24 At a Procedural Conference held on January 7, 2003, Qwest indicated its intent to stop  
25 providing service to LiveWirenet due to non-payment of its bill. During the pre-hearing, a hearing  
26 was set for February 24, 2003, and Qwest was ordered to continue providing service until that date.

27 On February 13, 2003, Staff filed a motion to continue the hearing scheduled for February 24,  
28 2003.



DOCKET NO. T-03889A-02-0796, et al.

1 On February 24, 2003, a pre-hearing was held, in lieu of the evidentiary hearing. All parties  
2 were present and all were represented by counsel. During the course of the pre-hearing, Qwest  
3 reiterated that LiveWirenet and the related entities ("LiveWirenet") was delinquent in paying its  
4 obligations to Qwest and, therefore, Qwest had determined that it would cease providing resold local  
5 exchange and long distance telephone service to LiveWirenet and its customers on March 6, 2003.  
6 During the pre-hearing, counsel for LiveWirenet was asked what steps the Company(s) was taking in  
7 order to make sure its customers received uninterrupted service. Counsel for LiveWirenet stated it  
8 had only received notice of Qwest's intent to terminate service the prior week and, therefore, it had  
9 not taken any steps to insure uninterrupted service or to notify its customers.

10 On February 25, 2003, the Commission issued a Procedural Order that stated that  
11 LiveWirenet shall give their customers reasonable notice of the possible termination or interruption  
12 of their service. The Procedural Order further stated that if LiveWirenet did not issue such notice,  
13 then Staff shall attempt to provide notice to the customers of LiveWirenet. Finally, Qwest was  
14 ordered to continue providing resold local and long distance service to the customers of LiveWirenet  
15 until at least March 21, 2003.<sup>1</sup>

16 On February 27, 2003, the Commission received a letter from counsel for LiveWirenet. In the  
17 letter, counsel stated that LiveWirenet would not be contacting Staff, preparing a notice, obtaining  
18 Staff approval of such notice or sending the notice to the affected customers as ordered by the  
19 Commission in the February 25, 2003 Procedural Order. Further, LiveWirenet stated that it would  
20 pursue legal action to prevent Staff from issuing such a notice to its customers.

21 On February 28, 2003, an emergency Procedural Conference was held at the request of Staff.  
22 All parties were represented by counsel who either appeared in person or telephonically. Staff stated  
23 that, since LiveWirenet refused to serve notice upon its customers as ordered by the Commission, the  
24 previous Procedural Order made it incumbent upon Staff to serve LiveWirenet's customers with  
25 notice. Staff also indicated that it would be very difficult for Staff to notify LiveWirenet's customers,  
26 as outlined in the February 25, 2003 Procedural Order, because Staff does not have an updated  
27

28 <sup>1</sup> The Procedural Order did not authorize Qwest to terminate or discontinue service on March 21, 2003.

DOCKET NO. T-03889A-02-0796, et al.

1 customer list, it would be a financial burden to Staff to send all of the customers a notice by mail, and  
2 it would take Staff at least one week to assemble and mail the notices. Staff further stated that Qwest  
3 was in a better position to notify the customers of LiveWirenet. According to Staff, Qwest has an  
4 updated customer list, Qwest could accomplish mailing of the notice by March 5, 2003, and Qwest  
5 has the financial resources to assure proper notice.

6 Qwest indicated that it could provide notice to a majority of LiveWirenet's customers, but  
7 would only do so if Qwest was able to recoup some of its costs from the ultimate provider of service.  
8 Further, Qwest stated that it would not send the customers of LiveWirenet such notice without an  
9 order from the Commission. When Staff was questioned regarding the possible notification of  
10 LiveWirenet's customers by publication, Staff stated that it did not feel publication was proper in this  
11 case. LiveWirenet continued to object to Staff issuing the notice and also objected to Qwest assisting  
12 Staff with the preparation of the notice. LiveWirenet also objected to the publication of notice.

13 As a certificated public service corporation, LiveWirenet has a duty to provide service to its  
14 customers. LiveWirenet was ordered on February 25, 2003 to give notice to all of its customers that  
15 service could be terminated or interrupted. However, LiveWirenet refused to comply with that  
16 directive and, as a result, the Commission must take extraordinary action to ensure that  
17 LiveWirenet's Arizona customers are protected. Accordingly, in order to protect the public health,  
18 welfare and safety, the customers of LiveWirenet should be given reasonable notice of the possible  
19 termination or interruption of their service. Since LiveWirenet has stated it will not send such notice  
20 to its customers, Staff shall attempt to notify the customers of LiveWirenet of the possible  
21 termination or interruption of their service. This directive for Staff to undertake notification of  
22 LiveWirenet's customers should not be interpreted as an indication that LiveWirenet's failure to  
23 comply with a Commission Order is without consequences. The Commission will consider  
24 appropriate remedies for LiveWirenet's actions at a subsequent date.

25 Further, it is in the public interest that Qwest not cease providing local exchange and long  
26 distance service until at least March 21, 2003.

27 IT IS THEREFORE ORDERED that pursuant to Article XV of the Arizona Constitution and  
28 A.R.S. §§ 40-202, 40-246 and 40-321, Staff shall draft a notice of hearing and a notice regarding the

DOCKET NO. T-03889A-02-0796, et al.

1 possible termination or interruption of LiveWirenet's service to LiveWirenet's customers and mail  
2 such notice to each of those customers on or before March 10, 2003.<sup>2</sup>

3 IT IS FURTHER ORDERED that Staff shall file the appropriate number of copies of the  
4 Notice and an affidavit stating that Staff has mailed the Notice to LiveWirenet's customers with  
5 Docket Control on or before March 14, 2003.

6 IT IS FURTHER ORDERED that pursuant to Article 15 of the Arizona Constitution and  
7 A.R.S. §§ 40-204 and 40-241, LiveWirenet and Qwest shall assist Staff in assembling the customer  
8 list(s) of LiveWirenet on or before March 5, 2003. The list(s), at a minimum, shall include the  
9 customer's name and address.

10 IT IS FURTHER ORDERED that Staff can address the recovery of costs of this investigation  
11 later on during the complaint process.

12 IT IS FURTHER ORDERED that a hearing shall be scheduled for April 15, 2003 at 10:00  
13 a.m. at the Commission's offices at 1200 West Washington, Phoenix, Arizona.

14 IT IS FURTHER ORDERED that Staff shall file its pre-filed testimony on or before March  
15 28, 2003.

16 IT IS FURTHER ORDERED that the remaining parties and/or intervenors shall file their pre-  
17 filed testimony on or before April 11, 2003.

18 IT IS FURTHER ORDERED that Staff's Motion to Bifurcate the hearing in this case is  
19 denied.

20 IT IS FURTHER ORDERED that as well as the Notice of possible termination or interruption  
21 of service, Staff shall also include in the notice the following notice of hearing:

22  
23 **NOTICE OF COMPLAINT AND PETITION FOR RELIEF FILED BY THE UTILITIES**  
24 **DIVISION OF THE ARIZONA CORPORATION COMMISSION AGAINST**  
25 **LIVEWIRENET OF ARIZONA, LLC, n/k/a THE PHONE COMPANY MANAGEMENT**  
26 **GROUP, LLC, d/b/a THE PHONE COMPANY OF ARIZONA JOINT VENTURE d/b/a THE**  
27 **PHONE COMPANY OF ARIZONA, ON SYSTEMS TECHNOLOGY, LLC and its principals,**  
28 **TIM WETHERALD, FRANK TRICAMO AND DAVID STAFFORD, THE PHONE**  
**COMPANY OF ARIZONA, LLC and its members**  
**Docket Nos. T-03889A-02-0796 and T-04125A-02-0796**

2 The Commission also relies on the intent of A.A.C. R14-2-1107.

DOCKET NO. T-03889A-02-0796, et al.

1 Staff of the Utilities Division ("Staff") of the Arizona Corporation  
2 Commission ("ACC") has filed a Complaint and Petition for Relief against  
3 LiveWirenet of Arizona, LLC n/k/a The Phone Company Management Group, LLC,  
4 d/b/a The Phone Company Of Arizona Joint Venture d/b/a The Phone Company Of  
5 Arizona, On Systems Technology, LLC and Its Principles, Tim Wetherald, Frank  
6 Tricamo And David Stafford, The Phone Company Of Arizona, LLC And Its  
7 Members alleging various violations of certain A.C.C. Rules and Arizona Revised  
8 Statutes. In its allegations, among other things, Staff alleges that the Respondents are  
9 not fit and proper entities to provide telephone service to their customers. In its  
10 Complaint, Staff seeks relief in the form of fines and requests the revocation of  
11 LiveWirenet's n/k/a the Phone Manager Group's Certificate of Convenience and  
12 Necessity to provide telephone service. Depending upon the nature of relief ordered,  
13 telephone service may be affected.

14 The Complaint of the Commission's Utilities Division Staff, and any answer  
15 filed by Respondents are available for inspection during regular business hours at the  
16 offices of the Commission located at 1200 West Washington Street, Phoenix, Arizona  
17 85007.

18 Under appropriate circumstances, interested parties may intervene in the  
19 proceedings and participate as a party. You may have the right to intervene in the  
20 proceeding, or you may make a statement for the record. Intervention shall be in  
21 accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed  
22 on or before April 1, 2003. Persons desiring to intervene must file a written motion to  
23 intervene with the Commission and send such motion to the Company or its counsel  
24 and to all parties of record, and which at the minimum, shall contain the following:

15 1. The name, address, and telephone number of the proposed intervenor and of  
16 any party upon whom service of documents is to be made if different than the  
17 intervenor.

18 2. A short statement of the proposed intervenor's interest in the proceeding  
19 (e.g. a customer of the company, a shareholder of the company, a competitor, etc.).

20 3. A statement certifying that a copy of the motion to intervene has been  
21 mailed to the Company or its counsel and to all parties of record in the case.

22 A.A.C. R14-3-105 shall govern the granting of motions to intervene. The  
23 granting of intervention, among other things, entitles a party to present sworn evidence  
24 at the hearing and to cross-examine other witnesses. However, failure to intervene  
25 will not preclude any interested person or entity from appearing at the hearing and  
26 making a statement on their own behalf. The hearing is scheduled to commence on  
27 April 15, 2003 at 10:00 a.m. at the Arizona Corporation Commission, 1200 West  
28 Washington Street, Phoenix, Arizona 85007. Please check with the Commission for  
any changes to the scheduled hearing date.

If you have any comments, mail them to:

The Arizona Corporation Commission  
Attention Docket Control  
re: ACC v. LiveWirenet, et al.  
T-03889-02-0796, et al.  
1200 West Washington Street  
Phoenix, Arizona 85007

DOCKET NO. T-03889A-02-0796, et al.

If you have any questions about this application, or want information on intervention, you may contact the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodations such as sign language interpreter, as well as request this document in an alternative format, by contacting Shelly Hood, ADA Coordinator, voice phone number 602/542-3931, E-Mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us). Requests should be made as early as possible to allow time to arrange the accommodation.

Dated this 3 date of March, 2003.



PHILIP J. DION III  
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 3 day of March, 2003 to:

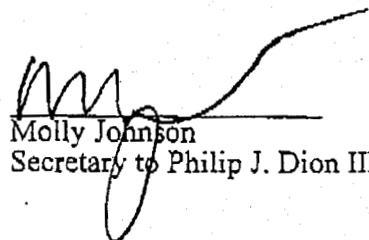
Timothy Berg  
FENNEMORE CRAIG  
3003 N. Central Avenue, Ste. 2600  
Phoenix, AZ 85003

Phoenix, AZ 85007

Jeffrey W. Crockett  
SNELL & WILMER, L.L.P.  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004

Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Marty Harper  
Shughart Thomson Kilroy Goodwin Raup  
3636 N. Central Avenue, Ste. 1200  
Phoenix, AZ 85012

By:   
Molly Johnson  
Secretary to Philip J. Dion III

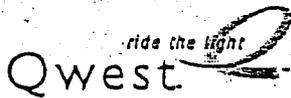
Mark Brown  
Qwest Corporation  
3033 N. 3<sup>rd</sup> Street, Ste. 1009  
Phoenix, AZ 85012

David Stafford Johnson  
740 Gilpin Street  
Denver, CO 80218

Michael L. Glaser  
1050 17<sup>th</sup> Street, Ste. 2300  
Denver, CO 80202

Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street

**D**



*This letter was sent via overnight mail.*

December 20, 2002  
The Phone Company  
Management Group LLC  
Attn: Amy Overland  
3025 South Parker Road  
10<sup>th</sup> Floor, Room 1000  
Aurora, CO  
80014

Dear Ms. Overland,

Re: 520-B11-5339-817,

This letter constitutes written notice of non-payment as required under your applicable contract.

This is to advise you that the required payment of \$113,093.30 has not been received.

Failure to pay this obligation has left us with no alternative but to terminate all services currently associated with the account listed above. Disconnection will occur as of January 7, 2003 unless full payment and a deposit in the amount of \$450,000.00 has been received by myself via overnight mail or wire transfer prior to this date.

Should disconnection occur, we will require full payment of the entire past due balance of \$1,089,588.99 before reconnection of any services. Late payment charges may also apply per the terms of your contract. Additionally, other charges may apply to have the account re-established.

Please contact me at 515-558-1079 with any questions you may have regarding your account or this notification.

Regards,

Austin R Ross  
Qwest Communications  
900 Keo Way, 4S  
Des Moines, IA  
50309

CC: Debra Van Vlair, Billing Manager  
Scott Martin, Billing Office Manager



E

The Law Firm Of



A Professional Corporation

Michael L. Glaser  
mglaser@stklaw.com  
Direct Dial (720) 931-8133  
Fax (303) 572-7883

December 31, 2002

*Via Federal Express*

Qwest Corporation  
ATTN: Austin Ross,  
Service Delivery Coordinator  
900 Keo Way 4S  
Des Moines, IA 50309



Re: Qwest Corporation invoices for resale services to The Phone Company  
Management Group, LLC

Gentlemen:

This law firm represents The Phone Company Management Group, LLC ("PCMG"), a competitive local exchange carrier providing resale local exchange telecommunications services in the state of Arizona pursuant to a valid Certificate of Convenience and Necessity ("CCN").

PCMG resells local exchange services of Qwest Corporation ("Qwest") pursuant to Qwest's Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Networks, Ancillary Services, and Resale of Telecommunications Services effective in the state of Arizona, 13th Revision, June 28, 2002 (the "Arizona SGAT"). PCMG began providing resale local exchange telecommunications services to its customers in May 2002 and received its first billing from Qwest for resale services dated May 22, 2002. PCMG has purchased local exchange service for resale services from Qwest pursuant to the Arizona SGAT continuously since May 2002, and Qwest has billed PCMG for such services as of May 22, June 22, July 22, August 22, September 22, and November 22, 2002. PCMG did not receive an invoice from Qwest as of October 22, 2002 (either a hard copy invoice or Billmate CD), but estimates that PCMG's purchase of telecommunications services from Qwest for resale as of October 22, 2002 is approximately the same as Qwest's invoice for such services to PCMG as of September 22, 2002.

In August 2002, Qwest notified PCMG that Qwest would no longer process PCMG's local exchange service requests ("LSRs") because of PCMG's nonpayment of Qwest's invoices. Until just recently, PCMG did not have a full opportunity to analyze Qwest's invoices for resale services for the aforementioned periods, but has now completed its review of these invoices. Qwest has also filed notice with the Arizona Corporation Commission of Qwest's December 20, 2002 letter to PCMG indicating Qwest's intent to disconnect PCMG's service unless PCMG pays Qwest's outstanding invoices in full and makes a deposit of

Qwest Corporation  
ATTN: Austin Ross  
December 31, 2002  
Page 2

\$650,000 by an unspecified date after January 7, 2003. PCMG has not, however, received its official copy of this letter

A. Qwest's invoices to PCMG contain gross overcharges

PCMG hereby disputes Qwest's billings to PCMG for resale services for the billing periods reflected in Qwest's invoices as of May 22, through and including November 22, 2002. These invoices total \$1,428,281. PCMG has paid Qwest \$41,567 against these invoices. Attached as Exhibit A is PCMG's accounting of Qwest's invoices to PCMG showing Qwest's invoice date, the number of resale lines for which Qwest billed PCMG, Qwest's invoice amount, the number of PCMG's lines billed, PCMG's revenues based on Qwest's services, the amount of Qwest charges disputed by PCMG for each invoice, the amount of charges in these invoices which PCMG does not dispute on overcharges, and the amount PCMG paid Qwest. In addition, PCMG has calculated the percentage of Qwest's bills which represent overcharges for each and every month beginning with Qwest's invoice dated May 22, 2002 through November 22, 2002. Qwest's overcharges average 31.07% for the seven billing cycles.

Qwest's invoices to PCMG for the entire period described above are replete with errors, including but not limited to, Qwest's overcharges to PCMG for local exchange services not ordered, such as charging PCMG for residential lines not ordered, charging PCMG for certain features associated with residential service, including caller ID, call waiting, call rejection, continuous redial, last returned call, priority call, caller identification, and selective call forwarding. In addition, Qwest has overcharged PCMG for voice messaging services. PCMG will make available to Qwest a list of items for which Qwest has overcharged PCMG for each invoice Qwest has billed PCMG beginning May 22, through November 22, 2002, with the exception of October 22, 2002, for which period PCMG did not receive an invoice. In this instance, and until PCMG receives an invoice (either itemized or as Billmate CD), PCMG has assumed that Qwest's charges for the period ending as of October 22, 2002, are approximately the same as Qwest's invoice for the period ending as of September 22, 2002, and has calculated Qwest's overcharges to PCMG as equaling Qwest's overcharges to PCMG on Qwest's September 22, 2002 invoice. As shown in Exhibit A, these overcharges total \$420,248, subject to further audit.

B. Qwest's failure to provision PCMG's customer orders timely and completely.

Moreover, PCMG disputes the total amount of each Qwest invoice for the period referenced above in the amount of \$1,428,281, based upon Qwest's failure to provide PCMG with access to customer service records ("CSRs") for an average of four days, in clear violation of Qwest's obligations to provide PCMG with Operations Support Systems services ("OSS") pursuant to Section 271 of the Communications Act of 1934 (as amended) ("the Act"), 47 U.S.C. § 271, the rules and regulations and decisions of the Federal Communications Commission ("FCC") and the courts interpreting these Section 271

Qwest Corporation  
ATTN: Austin Ross  
December 31, 2002  
Page 3

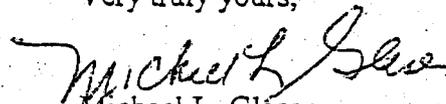
obligations and Qwest's obligations under the Arizona SGAT. Thus, Qwest, contrary to its OSS obligations as delineated by the FCC in its rules and regulations, the FCC's decisions and federal court decisions, and in violation of the Act and the Arizona SGAT, has failed to timely provide PCMG with access to CSRs relating to PCMG's newly provisioned customers. Thus, Qwest, after it provisions a PCMG customer order for resale services, immediately establishes a billing to PCMG for such services, but does not provide PCMG with access to the CSRs of any of these newly provisioned customers for three to five days, or an average of four days. Without immediate access to the CSRs, in substantially the same time and manner or in parity with Qwest's availability of CSRs to itself, PCMG is unable to provide maintenance, repair and other support to its customers. In fact, PCMG cannot perform these functions at all, let alone in substantially the same time and manner or in parity with Qwest's provision of provides these functions to its own retail local exchange customers.

Qwest's denial of immediate access to PCMG's resale customers' CSRs violates Qwest's duty to provide OSS to PCMG in at least two significant respects. First, Qwest is breaching its federal and state responsibility to provide nondiscriminatory access to its maintenance and repair systems contrary to its OSS obligations in violation of Section 201(b) and 202(a) of the Act, 47 U.S.C. § 201(b), 202(a). Secondly, until Qwest provides PCMG with access to PCMG's customers' CSRs, Qwest has not effectively provisioned the requested resale service. Therefore, Qwest's provisioning of PCMG's customer orders is incomplete, as well as untimely, which constitutes an unjust practice and failure to provide resale services, in violation of Section 201(b) and 251 of the Act.

Because Qwest has failed to completely and timely provision PCMG's customer orders, Qwest has damaged PCMG in the amount of \$420,248 for overcharges and in excess of \$3,000,000 for failure to timely and completely provision PCMG's resale services.

PCMG requests that Qwest take immediate action, in any event no less than 30 days, to conduct an investigation of the disputed charges and Qwest's failure to provision customer orders timely and completely, and promptly provide PCMG with all documentation supporting Qwest's invoice charges and Qwest's position establishing that Qwest has timely and completely provisioned PCMG's customer orders, and reach a resolution of PCMG's disputes. PCMG requests that Qwest work in good faith to resolve and settle PCMG's disputes through the informal process prior to PCMG's initiation of any other of its legal rights or remedies.

Very truly yours,

  
Michael L. Glaser

MLG:clb  
Enclosure

Qwest Corporation  
ATTN: Austin Ross  
December 31, 2002  
Page 4

cc (w/encl): Qwest Corporation, Director of Interconnection Compliance  
1801 California Street, Room 2410  
Denver, CO 80202

Qwest Corporation, Law Department  
ATTN: Corporate Counsel, Interconnection  
1801 California, 49th Floor  
Denver, CO 80202

**EXHIBIT A**

**Analysis of Qwest's Invoices for Resale Services**

<u>Invoice Date</u>	<u>Qwest Accounts Billed</u>	<u>Qwest Invoice</u>	<u>PCMG Accounts Billed</u>	<u>PCMG Revenue</u>	<u>Disputed Charges</u>	<u>Undisputed Charges</u>	<u>Paid</u>	<u>Balance Undisputed</u>	<u>Overcharges on % of Invoices</u>
22-May	\$ 1511	\$ 83135	\$ 1501	\$ 75943	\$41567	\$ 41567	\$41567	\$ 0	50.00%
22-Jun	2530	113093	2294	120362	30861	82232	0	82232	27.29%
22-Jul	3712	167697	3322	180529	44680	123017	0	123017	26.64%
22-Aug	4993	223938	4800	243525	60273	163665	0	163665	26.92%
22-Sep	6561	311304	5989	337759	90211	221093	0	221093	28.98%
22-Oct	6561	311304	5894	336899	90211	221093	0	221093	28.98%
22-Nov	6597	217810	5636	315839	62445	155365	0	155365	28.67%
	<b>\$32465</b>	<b>\$1428281</b>	<b>\$29436</b>	<b>\$1610856</b>	<b>\$420248</b>	<b>\$1008032</b>	<b>\$41567</b>	<b>\$966465</b>	

Note: October 22, 2002 is estimated because PCMG did not receive a Qwest invoice or Billmate CD.

**F**

The Law Firm Of



A Professional Corporation

Michael L. Glaser  
mglaser@stklaw.com  
Direct Dial (720) 931-8133  
Fax (303) 572-7883

January 2, 2003

*Via Facsimile & Federal Express*

Austin Ross  
Service Delivery Coordinator  
Qwest Corporation  
900 Keo Way 4S  
Des Moines, IA 50309



Re: Qwest Corporation invoices for resale services to The Phone Company Management Group, LLC; Account number 520-B11-5339-817; your letter of December 31, 2002

Dear Mr. Ross:

As you are aware from my letter dated December 31, 2002, this firm represents The Phone Company Management Group, LLC ("PCMG") in its dispute of the invoices of Qwest Corporation ("Qwest"), rendered to PCMG under the above-referenced account number. As my letter of December 31, 2002 states, Qwest has overcharged PCMG by \$420,248 in the period May 22 through November 22, 2002. Furthermore, as my December 31, 2002 letter indicates, Qwest has failed to provision PCMG's service timely, in violation of Qwest's obligations under Section 201(b), 202(a), 251 and 271 of the Communications Act of 1934, as amended, thereby causing damage to PCMG totaling at least \$3,000,000.

PCMG became aware of a letter which Qwest purported to have sent to PCMG dated December 20, 2002, and which PCMG's counsel received as an attachment to a copy of a pleading filed by Qwest's counsel on December 23, 2002, before the Arizona Corporation Commission in Docket Nos. T-03889A-02-0796 and T-04125A-02-0796. PCMG never received the Qwest December 20, 2002 letter directly from Qwest.

In light of PCMG's dispute of Qwest's billings to PCMG for services, PCMG strongly disagrees with Qwest's contention that PCMG owes Qwest a required payment of \$113,093.30 referenced in your letters to PCMG dated July 31, 2002 and September 3, 2002, and in your December 20 and 31, 2002 letters; or that full payment of current past-due charges for resale services in the amount of \$1,307,124.81 and a deposit in the amount of \$450,000 is due prior to December 15, 2003 as stated in your December 31, 2002 letter. Accordingly, PCMG vigorously objects to Qwest's threatened disconnection of PCMG's resale service as of January 15, 2003, in light of PCMG's substantial dispute of Qwest's invoices and charges for resale services.

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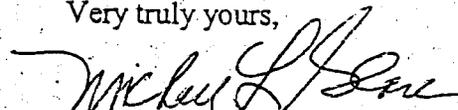
Austin Ross  
Qwest Corporation  
January 2, 2003  
Page 2

In the event Qwest persists in its threat to disconnect PCMG's service as of January 15, 2003, PCMG will take all appropriate legal action, including seeking injunctive relief, to prevent Qwest from taking such action.

PCMG suggests that the better course of action would be for PCMG and Qwest to engage in prompt resolution of PCMG's disputes of Qwest's invoices, as suggested in my letter of December 31, 2002, before Qwest takes such drastic and precipitous action as disconnecting PCMG's service.

In view of the foregoing, I would appreciate it if you would have Qwest's counsel contact me concerning this matter prior to Qwest taking action to disconnect PCMG's service as of January 15, 2002.

Very truly yours,



Michael L. Glaser

MLG:clb  
Enclosure

cc: Timothy Berg, Esq.  
Fennemore Craig  
3003 N. Central Avenue, Suite 2600  
Phoenix, AZ 85003-2913

Qwest Corporation, Director of Interconnection Compliance  
1801 California Street, Room 2410  
Denver, CO 80202

Qwest Corporation, Law Department  
ATTN: Corporate Counsel, Interconnection  
1801 California, 49th Floor  
Denver, CO 80202