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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
Chairman
MARC SPITZER
Commissioner
WILLIAM MUNDELL
Commissioner
MIKE GLEASON
Commissioner
KRISTIN MAYES
Commissioner

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McLEODUSA TELECOMMUNICATIONS SERVICES, INC.,

DOCKET NOs. T-03267A-06-0105
T-01051B-06-0105

Complainant,

QWEST'S ANSWER TO COMPLAINT

v.

QWEST CORPORATION,

Respondent

INTRODUCTION

Qwest Corporation, ("Qwest"), hereby answers the Complaint filed by McLeodUSA Telecommunication Services, Inc. ("McLeod"), and files a Counterclaim for amounts McLeod has improperly withheld from Qwest pursuant to the disputes discussed in McLeod's Complaint. Qwest generally denies all of the allegations of McLeod's Complaint, except as specifically admitted herein. This answer is supported by the Declaration of Robert J. Hubbard, attached hereto as Attachment 1.

1. Answering paragraph 1 of the Complaint, Qwest admits the allegations contained therein.

1 2. Answering paragraph 2 of the Complaint, Qwest admits the allegations contained
2 therein.

3 3. Answering paragraph 3 of the Complaint, Qwest admits that Qwest and McLeod
4 are parties to an interconnection agreement approved by the Commission in Arizona. Qwest is
5 without sufficient knowledge regarding McLeod's service offerings, and therefore denies the
6 remainder of the allegations in this paragraph.

7 4. Answering paragraph 4 of the Complaint, Qwest admits that McLeod installs
8 various pieces of equipment in its collocation spaces, and admits that most equipment requires
9 power for operation. The remainder of paragraph 4 is denied, as Qwest does not know the
10 monthly operating costs for each McLeod collocation, and Qwest's power charges are not
11 excessive.

12 5. Answering paragraph 5 of the Complaint, Qwest has no knowledge regarding how
13 McLeod determined the amount of collocation power originally ordered. Qwest admits the
14 remainder of the allegations contained therein.

15 6. Answering paragraph 6 of the Complaint, Qwest admits that McLeod and Qwest
16 negotiated for and entered into the DC Power Measuring Amendment attached as Exhibit A to
17 McLeod's Complaint. The charges for these services are established in Exhibit A to both
18 McLeod's Interconnection Agreement ("ICA") with Qwest, and Qwest's Statement of Generally
19 Available Terms ("SGAT"), sections 8.1.4.1.1 (titled "Power Plant"), 8.1.4.1.2.1 (titled "Power
20 Usage Less Than 60 Amps, per Amp"), and 8.1.4.1.2.2 (titled "Power Usage More Than 60
21 Amps, per Amp). The relevant page of Exhibit A is attached to this Answer as Attachment 2.
22 The prices for these elements were established in a contested cost docket proceeding, and
23 approved by the Commission in Docket No. T-00000A-00-0194. The evidence in that
24 proceeding established the Power Plant charges as rates to cover the fixed costs of equipment
25 required to provide the amount of DC power capacity requested by McLeod in its collocation
26 application to Qwest. Variable costs such as the cost of electricity to power the equipment are

1 covered by the two power usage charges. The DC Power Measuring Amendment affected only
2 one of these charges: the Power Usage charge for orders greater than sixty amps, section
3 8.1.4.1.2.2 of the SGAT. The remainder of paragraph 6 is denied.

4 7. Answering paragraph 7 of the Complaint, Qwest admits the allegations contained
5 therein.

6 8. Answering paragraph 8 of the Complaint, Qwest admits the allegations contained
7 therein. The allegations in this paragraph correctly describe what McLeod's ICA and the DC
8 Power Measuring Amendment require. Section 2.2.1 of the DC Power Measuring Amendment
9 changed the Power *Usage* charge for "all orders of greater than sixty (60) amps" to reflect usage
10 at the time of measurement, but did not affect the Power Plant charges or the Power Usage
11 charges associated with orders of less than sixty amps. The Power Plant charge was not affected
12 by the amendment because, as referenced in paragraph 6 above, the underlying purpose of the
13 charge was to recover the fixed costs of equipment required to provide the amount of DC power
14 capacity requested by McLeod in its collocation application to Qwest. It would not have been
15 appropriate to prorate the recovery of these fixed costs bases on actual usage because they do not
16 vary with usage. Qwest denies any allegation or implication that its billing for power charges
17 ever varied from the requirements of the DC Power Measuring Amendment after that agreement
18 was approved by the Commission.

19 9. Answering paragraph 9 of the Complaint, Qwest states that the allegations in
20 paragraph 9 constitute conclusions of law and contractual interpretation, and as such contain no
21 factual allegations for which Qwest must admit or deny. Subject to the foregoing, denied. As
22 noted above, there are three different "power charges" in the Exhibit A: (1) Power Usage
23 charges for orders greater than sixty amps, (2) Power Usage charges for orders less than sixty
24 amps, and (3) Power Plant charges. The DC Power Measuring Amendment affected only one of
25 these charges: the Power Usage charge for orders greater than sixty amps.

26 10. Answering paragraph 10 of the Complaint, Qwest admits the allegations

1 contained therein.

2 12. McLeod's Complaint is barred in whole or in part by the doctrines of waiver,
3 release, and estoppel.

4 13. McLeod's Complaint is barred in whole or in part by the doctrines of accord and
5 satisfaction.

6 14. McLeod admitted in paragraph 9 of its Complaint that it withheld disputed
7 amounts Qwest had billed pursuant to the DC Power Measuring Amendment.

8 15. Qwest's records indicate that McLeod has withheld at least \$192, 254.09 in
9 connection with this dispute.

10 16. Qwest properly billed these amounts pursuant to the DC Power Measuring
11 Amendment.

12 17. McLeod has improperly failed to pay these withheld amounts in breach of the DC
13 Power Measuring Amendment, which amounts are past due and owing.

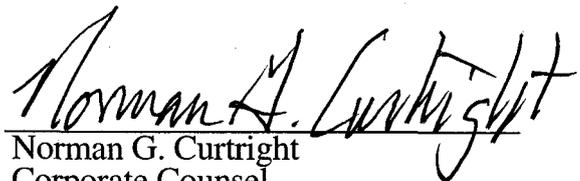
14 WHEREFORE, Qwest requests that the Commission enter an order:

- 15 (1) Denying McLeod's Complaint in its entirety;
- 16 (2) Directing McLeod to immediately pay all amounts due under Qwest's invoices
17 for the Power Plant element, plus interest and late payment fees pursuant to the ICA
18 between the parties.

19 DATED this 16th day of March, 2006.

20 QWEST CORPORATION

21
22
23 By:



Norman G. Curtright
Corporate Counsel
4041 N. Central Ave., Suite 1100
Phoenix, Arizona 85012
Telephone: (602) 630-2187

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26

1 ORIGINAL and 13 copies hand-delivered
2 for filing this 16th day of March, 2006, to:

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 West Washington Street
6 Phoenix, AZ 85007

7 COPY of the foregoing hand delivered
8 this 16th day of March, 2006, to:

9 Lyn Farmer, Chief Administrative Law Judge
10 Hearing Division
11 ARIZONA CORPORATION COMMISSION
12 1200 W. Washington
13 Phoenix, AZ 85007
14 jrodda@cc.state.az.us

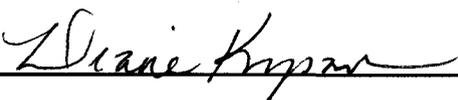
15 Maureen A. Scott, Esq.
16 Legal Division
17 ARIZONA CORPORATION COMMISSION
18 1200 W. Washington Street
19 Phoenix, AZ 85007

20 Christopher Kempley, Chief Counsel
21 Legal Division
22 Arizona Corporation Commission
23 1200 W. Washington Street
24 Phoenix, AZ 85007

25 Ernest Johnson, Director
26 Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Copy of the foregoing mailed and emailed
this 16th day of March, 2006, to:

Michael W. Patten
Roshka Heyman & DeWulf, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Email: mpatten@rhd-law.com



ATTACHMENT 1

BEFORE THE ARIZONA CORPORATION COMMISSION

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JEFF HATCH-MILLER
Chairman
MARC SPITZER
Commissioner
WILLIAM MUNDELL
Commissioner
MIKE GLEASON
Commissioner
KRISTIN MAYES
Commissioner

**McLEODUSA TELECOMMUNICATIONS
SERVICES, INC.,**

Complainant,

v.

QWEST CORPORATION,

Respondent

**DOCKET NO. T-03267A-06-0105
T-01051B-06-0105**

**DECLARATION OF ROBERT J.
HUBBARD IN SUPPORT OF QWEST
CORPORATION'S ANSWER**

I, Robert J. Hubbard, declare as follows:

1. My name is Robert J. Hubbard. I am employed by Qwest Services Corporation as a Technical Regulatory Director. My business address is 700 W. Mineral Av., Littleton, Colorado 80120.

2. I am responding to the claim filed by McLeodUSA Telecommunications Services, Inc., ("McLeod") and to the declaration filed by Michael Starkey.

3. McLeod is incorrect to assert that Qwest should be charging the "Power Plant" rate element based on a per usage measurement. That is not what the DC Power Measuring Amendment says. While I am not a lawyer, the DC Power Measuring Amendment's plain language provides for the charges for one element to vary based on measured usage: the "-48

1 Volt Usage Charge [that] applies on a per amp basis to all orders of greater than sixty(60) amps.”
2 The DC Power Measuring Amendment does not affect or even mention the charges for “Power
3 Plant.” Moreover, the overall structure and language of the DC Power Measuring Amendment
4 are consistent with how the rates for the Power Usage charges and Power Plant charges were
5 developed in the most recent cost docket. Power plants are sized and built according to Qwest
6 and CLEC demand. In other words, every element that is placed in a central office that draws
7 power is taken into account and the power plant is sized for the peak demand. If McLeod had a
8 forecast for 100 amps then Qwest’s power plant would be built and sized for that demand. Once
9 built, the power plant is not necessarily resized simply because demand decreases – Qwest does
10 not reduce the ultimate capacity for McLeod just because they are not using the full 100 amps.
11 On a usage basis, Qwest is only charging McLeod for measured usage at its collocation sites.
12 Because McLeodUSA ordered 100 amps of capacity, Qwest must still maintain the ability to
13 provide McLeod with 100 amps it ordered if necessary, and the “Power Plant” rate element is
14 accordingly not prorated.

15 4. With regard to the discussion in paragraph 5 of Mr. Starkey’s declaration, I agree
16 that Qwest does charge McLeod for the power that McLeod uses. However, the power plant is
17 sized, pursuant to McLeod’s original request, for a much larger power draw and Qwest sized and
18 built the power plant to accommodate that forecasted request. Regardless of what McLeod now
19 says McLeod intended in signing that amendment, the amendment clearly only addresses the
20 usage element, not the “power plant” element.

21 5. With regard to the discussion in paragraph 7 of Mr. Starkey’s declaration, I
22 disagree that Qwest is improperly billing McLeod – Qwest bills measured usage on the usage-
23 based elements, but the rate element under section 8.1.4.1.1, the power plant, is not billed on a
24 usage basis, as it was not part of the amendment.

25 6. With regard to the discussion in paragraphs 8 and 9 of Mr. Starkey’s declaration, I
26 believe that Mr. Starkey essentially confirms that the way the Power Plant and Power Usage rate

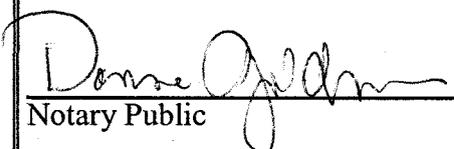
1 elements were developed is consistent only with Qwest's interpretation of the contract at issue –
2 the power plant is designed for the whole office, and is also sized and built to handle McLeod's
3 forecasted demand. The power plant rate element recovers costs that are not usage sensitive –
4 thus, as the absence of any mention of the Power Plant charge in the DC Power Measuring
5 Amendment makes clear, this rate element would never be charged on a usage basis.

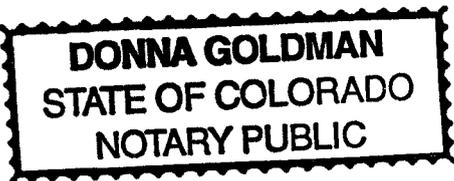
6 7. With regard to the discussion in paragraph 10 of Mr. Starkey's declaration, Power
7 plants are designed to accommodate the forecasted demand of CLECs and this is taken into
8 account every time a CLEC places an order.

9
10 I declare under penalty of perjury under the laws of the State of Arizona that the
11 foregoing is true and correct.

12
13 
14 Robert J. Hubbard

15
16 Subscribed and Sworn Before Me
17 This 9th Day of March, 2006

18
19
20 
21 Notary Public



ATTACHMENT 2

**Exhibit A
Arizona***

		Recurring	Recurring, per Mile	Non- Recurring	REC	REC per Mile	NRC
7.6.3.2	Over 8 to 25 Miles	\$0.00079	\$0.00		B	B	
7.6.3.3	Over 25 to 50 Miles	\$0.00079	\$0.00		B	A	
7.6.3.4	Over 50 Miles	\$0.00079	\$0.00		B	A	
7.7	Local Traffic-FCC-JSP Rate Caps						
7.7.1	MOU as of June 14, 2003, rates in effect until further FCC Action	\$0.0007			4		
7.8	Miscellaneous Charges						
7.8.1	Expedite Charge (LIS Trunks)			Qwest's Arizona Switched Access Tariff			
7.8.2	Cancellation Charge (LIS Trunks)			Qwest's Arizona Switched Access Tariff			
7.8.3	Additional Testing (LIS Trunks)			Qwest's Arizona Switched Access Tariff			
7.8.4	Construction Charges	ICB		ICB	5		5
7.9	Transit Traffic						
7.9.1	Local Transit, per Minute of Use (Local Transit Assumed Mileage = 9 Miles)	See Tandem Switching and Tandem Transmission Rates Above	See Tandem Switching and Tandem Transmission Rates Above				
7.9.2	IntraLATA Toll Transit (Local Transit Assumed Mileage = 9 Miles)	Qwest's Arizona Switched Access Tariff	Qwest's Arizona Switched Access Tariff				
7.9.3	Jointly Provided Switched Access	Qwest's Arizona Switched Access Tariff					
7.9.4	Category 11 Mechanized Record Charge, per Record	\$0.001827			5		
7.10	Intentionally Left Blank						
7.11	IntraLATA Toll Exchange Access	Qwest's Arizona Switched Access Tariff	Qwest's Arizona Switched Access Tariff				
7.12	LIS Forecasting Deposit						
7.12.1	DS1 End Office Direct Trunking			\$6,500.00			5
7.12.2	DS1 Tandem Trunking			\$16,000.00			5
8.0	Collocation						
8.1	All Collocation						
8.1.1	Planning and Engineering						
8.1.1.1	Quote Preparation Fee			\$1,381.54			A
8.1.1.2	Augment Quote Prep Fee			\$345.00			A
8.1.2	Entrance Facility						
8.1.2.1	Standard per Fiber Pair	\$8.42		\$335.47	A		A
8.1.2.2	Cross Connect per Fiber	\$8.50		\$388.22	A		A
8.1.2.3	Express per Cable	\$146.47		\$5,475.55	A		A
8.1.3	Cable Splicing						
8.1.3.1	Fiber, per Set-Up			\$499.69			A
8.1.3.2	Per Fiber Spliced			\$22.22			A
8.1.3.3	Per Splice - Copper			ICB			5
8.1.4	Power Usage						
8.1.4.1	-48 Volt DC Power Usage, per Ampere, per Month						
8.1.4.1.1	Power Plant						
8.1.4.1.1.1	Greater Than 60 Amps	\$10.75			A		
8.1.4.1.1.2	Equal to 60 Amps	\$10.75			A		
8.1.4.1.1.3	Less Than 60 Amps	\$10.75			A		
8.1.4.1.2	Power Usage						
8.1.4.1.2.1	Less Than 60 Amps, per Amp	\$3.64			A		
8.1.4.1.2.2	More Than 60 Amps, per Amp	\$7.27			A		
8.1.5	AC Power Feed						
8.1.5.1	AC Power Feed (Backup Power), per Amp, per Month						
8.1.5.1.1	120 V	\$15.48			A		
8.1.5.1.2	208 V, Single Phase	\$26.83			A		
8.1.5.1.3	208 V, Three Phase	\$46.42			A		
8.1.5.1.4	240 V, Single Phase	\$30.96			A		