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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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**McLEODUSA TELECOMMUNICATIONS  
SERVICES, INC.,**

**Complainant,**

**v.**

**QWEST CORPORATION,**

**Respondent**

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

**QWEST'S MOTION TO STRIKE THE  
SUPPLEMENTAL DIRECT  
TESTIMONY OF MR. MICHAEL  
STARKEY**

Qwest Corporation ("Qwest") hereby moves to strike Mr. Starkey's Supplemental Direct Testimony regarding cost issues, filed June 9, 2006.

There are at least two reasons why this testimony should be stricken – first, the cost study testimony is irrelevant; second, it is an impermissible collateral attack on the Commission-approved Power Plant rate.

First, and most importantly, testimony about the cost study and Qwest's Power Plant rates is irrelevant to determining the central issue in this case, which is the proper interpretation of the Power Measuring Amendment between the parties. This case is first and foremost about the proper interpretation of the DC Power Measuring Amendment that the parties entered into in August of 2004. There is no reasonable dispute in this case that, prior to the execution of that

1 amendment, the parties' interconnection agreement provided that Qwest would assess all DC  
2 power plant charges on an "as ordered" basis. The only issue raised in this petition for  
3 enforcement is whether the power measuring amendment is limited to the power usage charge, as  
4 is Qwest's position, or if it extends more broadly to encompass rates such as power plant (even  
5 though those rates are not mentioned in the amendment), as is McLeod's position.

6 Plainly, a case of this nature presenting a limited issue such as the one described above,  
7 does not lend itself to a full blown exploration of Qwest's costs or an examination of Qwest's  
8 cost studies, as McLeod seems to intend with this testimony. As McLeod is well aware, the  
9 Commission in Arizona has engaged in extensive cost dockets and has ordered rates for many  
10 rate elements, including the collocation rates at issue in this case. These particular rates were the  
11 subject of Docket No. T-00000A-00-0194.

12 Testimony relating to the cost docket is not relevant in the proceeding. McLeod's  
13 Complaint simply seeks a Commission decision regarding the meaning of the parties' DC Power  
14 Amendment. The collocation cost studies are not relevant to that dispute. McLeod has  
15 nevertheless filed ten pages of testimony addressing the cost study, and impermissibly expanding  
16 the scope of this proceeding beyond that of a petition to enforce an interconnection agreement.  
17 Because the cost information is not relevant to the dispute in this Complaint, it should be  
18 stricken.

19 Second, Mr. Starkey's cost testimony is nothing more than an attack on the actual  
20 Commission-approved Power Plant rates. Though McLeod will deny that it is attacking the rate,  
21 this denial rings hollow in light of the actual testimony and the background of this proceeding.  
22 McLeod's dispute ostensibly was triggered by the parties' differing interpretations of the Power  
23 Measuring Amendment. However, all of Mr. Starkey's discussion with regard to the cost  
24 support for the Power Plant rates is based on the cost study itself. That study dates from the cost  
25 docket in 2000 – 2002, Docket No. T-00000A-00-0194. If in fact the costs were developed as  
26 Mr. Starkey claims (though Qwest strongly disagrees with Mr. Starkey's testimony, and believes

1 that Mr. Starkey entirely misinterprets the study), then his criticisms would have been equally  
2 applicable to the rates as they existed before the amendment.

3 As such, it is readily apparent that Mr. Starkey's cost testimony does not shed any light  
4 on the language of the Amendment, or the parties' intent in entering into it. Rather, through  
5 allegations that Qwest is "overrecovering" its costs by charging the Commission-approved  
6 Power Plant rates, McLeod is simply challenging the rate already established in a contested cost  
7 proceeding. Indeed, Qwest's cost study was the subject of a long and detailed examination in  
8 that cost docket, and the Commission examined and modified the Power Plant rates prior to  
9 approval, specifically allowing Qwest to charge the rates on a "per amp ordered" basis.  
10 This complaint proceeding is not the proper venue in which to modify those rates. The issues  
11 raised by McLeod in this case are outside scope of a proceeding to enforce the terms of an  
12 interconnection agreement. McLeod, by seeking to introduce cost study information, is in fact  
13 attempting to broaden the scope of this debate beyond the mere enforcement of the  
14 interconnection agreement amendment into a rate investigation. Such an action is not  
15 appropriate in a petition for enforcement.

16 Contemporaneously with the filing of this motion, Qwest is filing its response testimony.  
17 Included with that filing is the response testimony of Teresa K. Million, which addresses the  
18 issues raised by Mr. Starkey. Qwest would withdraw that testimony upon the granting of this  
19 motion.

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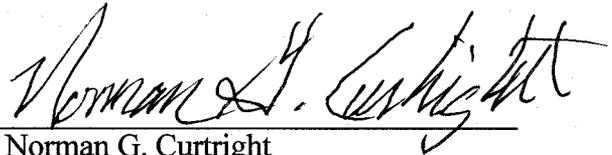
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RESPECTFULLY SUBMITTED this 22nd day of June, 2006.

QWEST CORPORATION

By: 

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1 ORIGINAL and 13 copies hand-delivered  
2 for filing this 22nd day of June, 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/mailed/emailed  
8 this 22nd day of June, 2006 to:

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