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BEFORE THE ARIZONA CORPORATION COMMISSION

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JEFF HATCH-MILLER
 Chairman
 WILLIAM A. MUNDELL
 Commissioner
 MIKE GLEASON
 Commissioner
 KRISTIN K. MAYES
 Commissioner
 BARRY WONG
 Commissioner

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

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IN THE MATTER OF THE FORMAL
 COMPLAINT AND REQUEST FOR
 DECLARATORY JUDGMENT OF PAC-WEST
 TELECOMM

) DOCKET NO. T-03693A-05-0875
) T-01051B-05-0875
)
) **REPLY TO SECOND AMENDED**
) **COUNTERCLAIM**
)

For its Reply to Defendant's Counterclaims, Plaintiff/Counterdefendant Pac-West Telecomm, Inc. ("Pac-West"), admits, denies, and alleges as follows. The paragraph numbers of the Reply correspond to the paragraph numbers of Defendant's Counterclaims. Pac-West denies all allegations of the Counterclaims not expressly admitted herein.

PARTIES

- 17. Pac-West admits that Qwest has brought three counterclaims and denies the remaining allegations contained in paragraph 17.
- 18. Pac-West neither admits nor denies Qwest's responses to the Amended Complaint and Qwest's affirmative defenses.
- 19. Denied.

20. Pac-West neither admits nor denies Qwest's responses to the Amended Complaint and Qwest's affirmative defenses.

21. Denied.

22. To the extent that the allegations in ¶ 22 purport to quote from or characterize the SPOP Amendment, Pac-West respectfully refers the Commission to that amendment for its contents and terms and denies all allegations in ¶ 22 inconsistent with the parties' interconnection agreement.

23. Denied.

24. Pac-West neither admits nor denies Qwest's responses to the Amended Complaint and Qwest's affirmative defenses. Responses to paragraphs 17-23 are set forth above.

25. To the extent that the allegations in ¶ 25 quote from or characterize the InterLCA Amendment, Pac-West respectfully refers the Commission to that amendment for its contents and terms.

26. Denied.

27. Denied.

28. Pac-West neither admits nor denies Qwest's responses to the Amended Complaint and Qwest's affirmative defenses. Responses to paragraphs 17-27 are set forth above.

29. Denied.

AFFIRMATIVE DEFENSES

1. Counterclaimant has failed to state a claim upon which relief can be granted.

2. Counterclaimant is not entitled to recover under its Counterclaim on the grounds that the interconnection agreement is a legal and binding contract which requires Qwest to pay the DTT facility charges sought under the First Amended Complaint.

3. Counterclaimant is collaterally estopped by Commission Decision No. 68820 from arguing that Pac-West may not use LIS facilities because a different compensation scheme applies to VNXX traffic.

4. Plaintiff/Counterdefendant reserves the right to allege such other affirmative defenses as are supported by information developed through discovery or by evidence at trial.

WHEREFORE, Pac-West requests the following relief:

1. Counterclaimant's Counterclaims be dismissed in their entirety with prejudice;
2. Counterclaimant take nothing on its counterclaims;
3. Judgment be entered for Pac-West;
4. Pac-West be awarded the full amount owed by Qwest to Pac-West for DTT facilities as sought in the First Amended Complaint; and
5. Such other relief as the Court deems appropriate.

OSBORN MALEDON PA

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Original and fifteen (15) copies of the foregoing were filed this 9th day of August, 2006, with:

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Copies of the foregoing hand-delivered this
9th day of August, 2006, to:

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