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BEFORE THE ARIZONA CORPORATION COMMISSION

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GARY PIERCE
Chairman
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner
BRENDA BURNS
Commissioner

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

**IN THE MATTER QWEST CORPORATION'S
PETITION FOR ARBITRATION AND
APPROVAL OF INTERCONNECTION
AGREEMENT WITH NORTH COUNTY
COMMUNICATIONS CORPORATION OF
ARIZONA PURSUANT TO SECTION 252(B) OF
THE COMMUNICATIONS ACT OF 1934 AS
AMENDED BY THE TELECOMMUNICATIONS
ACT OF 1996 AND APPLICABLE STATE LAWS.**

DOCKET NO. T-01051B-09-0383
DOCKET NO. T-03335A-09-0383

Qwest Corporation hereby files the attached rebuttal testimony of Philip Linse and Renée Albersheim pursuant to the Procedural Order issued on February 4, 2011 in the above captioned matter.

RESPECTFULLY SUBMITTED this 11th day of February, 2011.

QWEST CORPORATION

Arizona Corporation Commission
DOCKETED
FEB 11 2011

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BEFORE THE ARIZONA CORPORATION COMMISSION

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Chairman
PAUL NEWMAN
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IN THE MATTER OF QWEST)
CORPORATION'S PETITION FOR)
ARBITRATION AND APPROVAL OF AN)
INTERCONNECTION AGREEMENT)
WITH NORTH COUNTY)
COMMUNICATIONS CORPORATION OF)
ARIZONA PURSUANT TO SECTION 252)
(b) OF THE TELECOMMUNICATIONS)
ACT OF 1996 AND APPLICABLE STATE)
LAWS.)

Docket No. T-01051B-09-0383
T-03335A-09-0383

REBUTTAL TESTIMONY OF PHILIP LINSE

ON BEHALF OF

QWEST CORPORATION

February 11, 2011

**REBUTTAL TESTIMONY OF PHILIP LINSE
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1 I. IDENTIFICATION OF WITNESS

2 Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS
3 ADDRESS.

4 A. My name is Philip Linse. My business address is Qwest Network Reliability
5 Center at 700 West Mineral Avenue in Littleton, Colorado. I am employed
6 as Director – Legal Issues for Network. I am testifying on behalf of Qwest
7 Corporation (“Qwest”).

8 Q. ARE YOU THE SAME PHILIP LINSE THAT PROVIDED DIRECT
9 TESTIMONY IN THIS ARBITRATION?

10 A. Yes I am.

11 II. PURPOSE OF TESTIMONY

12 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

13 A. The purpose of my testimony is to respond to the technical issues and
14 associated interconnection agreement (“ICA”) issues raised by Mr. Todd
15 Lesser on behalf of North County Communications (“NCC”). In addition, I
16 will explain Qwest’s position and how Qwest’s proposed language provides
17 NCC with the flexibility to continue its use of MF signaling.

18 III. THE POSITION OF THE PARTIES

19 Q. IN GENERAL, WHAT APPEARS TO BE NCC’S POSITION IN THIS
20 ARBITRATION?

21 A. NCC advocates its continued operation under the terms of the existing
22 expired ICA. NCC also incorrectly argues that the existing expired ICA
23 allows NCC to continue its use of MF signaled interconnection trunking. My
24 testimony will focus generally on the issue of signaling while Ms. Albersheim
25 will focus on Qwest’s efforts to obtain an updated modern ICA.

1 **Q. WHAT IS QWEST'S RESPONSE TO NCC'S POSITION IN THIS**
2 **ARBITRATION?**

3 A. NCC argues against a new ICA that accommodates NCC's goal to continue
4 use of MF signaling in favor of an ICA that actually requires NCC to
5 implement SS7 signaling. Qwest's arbitration position supports NCC's goal
6 to retain MF signaling, and is a reasonable compromise.

7 **Q. IS IT REALISTIC FOR NCC TO EXPECT THAT IT WOULD NOT HAVE**
8 **TO DEAL WITH TECHNOLOGY CHANGES FOR 13 YEARS AS MR.**
9 **LESSER ASSUMES¹?**

10 A. No. Telecommunications networks are technology based and constantly
11 evolving. For example, Qwest's switching network has evolved from
12 mechanical analog to completely digital and SS7 capable. Even regulation
13 has demanded the advancement of technology in telecommunications, with
14 requirements such as Equal Access and Local Number Portability. Qwest
15 has implemented these capabilities and more. Since 1996 Qwest has filed
16 over 400 network disclosures of planned changes to Qwest's network that
17 help advance Qwest's use of technology to effectively serve customers.

18 When the advancement of technology is ignored, such as NCC insisting
19 upon its continued use of MF trunk signaling, customers and carriers can be
20 impacted. Customers can be adversely impacted as the result of longer call
21 set up times. Carriers can be adversely impacted as the result of NCC's
22 network inefficiencies and the lack of calling party information.

¹ Lesser Direct Pages 4 and 19

1 **Q. CAN SS7 NETWORKS OF OTHER CARRIERS BE ADVERSELY**
2 **IMPACTED AS QWEST'S NETWORK IS IMPACTED BECAUSE OF**
3 **NCC'S REFUSAL TO UPGRADE ITS NETWORK AND INTERCONNECT**
4 **WITH SS7 TECHNOLOGY?**

5 A. Yes. Other carrier's networks can be adversely impacted because the SS7
6 network must accommodate the inefficiency of NCC's network. As I
7 explained in my direct testimony, increased trunk utilization occurs when the
8 customers of other carriers call NCC's customers and the called party's line
9 is busy. Contrary to SS7 networks, MF networks maintain the end to end
10 connection for the duration of the busy signal. However, when MF signaling
11 is used in combination with SS7 trunking, the SS7 trunking becomes
12 inefficiently used because it must accommodate the MF technology to
13 enable call completion. The inefficient nature of NCC's MF network is then
14 incorporated into the other carrier's SS7 trunking network with every call
15 made to NCC's network.

16 Additionally, the lack of calling party information can keep other carriers
17 from determining call jurisdiction (a.k.a. Phantom Traffic). This can lead to
18 network arbitrage where compensation by the responsible party may be
19 avoided. Although the use of SS7 cannot eliminate this totally, it does
20 assist with all carriers' transparent use of each other's network.

21 **IV. RESPONSE TO THE DIRECT TESTIMONY OF MR. TODD LESSER**

22 **A. NCC'S SIGNALING OBLIGATION AND ITS CONTINUED USE OF MF SIGNALING**

23 **Q. DOES NCC'S EXISTING ICA WITH QWEST ALLOW NCC TO CONTINUE**
24 **ITS EXCLUSIVE USE OF MF SIGNALING AS MR. LESSER CONTENDS**
25 **ON PAGE 4 OF HIS DIRECT TESTIMONY?**

26 A. No. As Ms. Albersheim explains in her testimony, while the ICA does allow
27 MF signaling, it also contains an implementation provision that requires the

1 parties to implement SS7 signaling within a very short time after the ICA
2 was effective². The existing ICA clearly reflects the condition that the
3 parties would have the capability to interconnect using SS7 signaling. The
4 existing ICA memorializes the parties' agreement that SS7 signaling would
5 be available to interconnect.

6 **Q. DID NCC EVER INTERCONNECT WITH QWEST USING SS7**
7 **SIGNALING?**

8 A. No. They did not.

9 **Q. MR. LESSER CLAIMS THAT NCC HAS DESIGNED ITS WHOLE**
10 **NETWORK ON THE EXISTING INTERCONNECTION AGREEMENT.³ DO**
11 **YOU AGREE WITH MR. LESSER?**

12 A. No. If NCC had designed its network according to the terms of the existing
13 ICA, NCC would have designed its network anticipating SS7 signaled
14 interconnection trunking with Qwest. Additionally, if NCC had designed its
15 network according to the terms of the existing ICA, NCC would have
16 implemented SS7 and there would be no need for Qwest to offer
17 compromised language that provides NCC continued use of MF trunk
18 signaling.

19 **Q. DID NCC EVER INDICATE THAT IT WOULD CONVERT TO SS7?**

20 A. Yes. In an April 19th, 2001 email⁴ from Mr. Lesser to Qwest representative
21 Ms. Nancy Batz, Mr. Lesser states "Our tandem switch will be installed
22 when we convert to SS7." Clearly, this left Qwest with the impression that
23 NCC would implement SS7 and have the capability to interconnect with

² See section XXXIII. of the parties' current but expired ICA

³ Lesser Direct page 4

⁴ See Exhibit PL-2

1 Qwest using SS7. Additionally, Mr. Lesser's use of the phrase "when we
2 convert to SS7" does not appear to express what Mr. Lesser now contends
3 is a need to "scrap"⁵ NCC's entire network or as Mr. Lesser also contends
4 on page 11 of his direct testimony make them "throw away our equipment".
5 In 2001, NCC was planning on converting to SS7 but now NCC claims it
6 would be required to replace its entire network. There is no technical reason
7 why NCC's network could be converted to SS7 signaling in 2001 but not in
8 2011.

9 **Q. NCC CLAIMS THAT "THEY (QWEST) WANT US TO SWITCH TO SS7**
10 **BECAUSE THEN THEY CAN CHARGE US FOR THE SS7 LINKS."**⁶
11 **HAS NCC IMPLEMENTED SS7 EQUIPMENT SUCH THAT NCC COULD**
12 **PROVISION ITS OWN LINKS?**

13 A. Yes. Exhibit PL-3 is a February 13th 2007 email from Mr. Lesser to Qwest
14 representatives Ms. Ann Marie Brunk and Ms. Nancy Batz explaining that
15 NCC's SS7 equipment is located in San Diego and that they also have SS7
16 connectivity with Verisign⁷. Thus, with NCC's implementation of its own
17 STP and SS7 connectivity with Verisign, NCC would not need nor would
18 Qwest require NCC to purchase SS7 links from Qwest. This is because
19 Qwest also has SS7 link connectivity with Verisign and often exchanges
20 transient SS7 signaling with Verisign associated with traffic between Qwest
21 and other CLECs such as NCC. The only thing that would be necessary is
22 for NCC to establish trunking configured for SS7 signaling (not signaling
23 links) with Qwest. In fact, the trunks that are in place today could be

⁵ Lesser Direct page 12

⁶ Lesser Direct page 10

⁷ Verisign is an SS7 signaling hub provider that has SS7 connectivity to Qwest and other major SS7 Networks. SS7 signaling hub providers provide SS7 connectivity so that originating and terminating carrier's signaling messages may traverse the hub provider's network without the need for direct SS7 network connectivity with all other SS7 networks.

1 converted to support SS7 signaling without the need for new duplicate
2 trunks. This would allow the conversations between Qwest and NCC
3 customers to take place between the Qwest and NCC network while the
4 signaling for such connections would take place through the use of Qwest
5 and NCC's mutual SS7 connectivity with Verisign.

6 **Q. IS QWEST'S PROPOSED ICA LANGUAGE A COMPROMISE**
7 **COMPARED TO THE EXISTING AGREEMENT THAT OTHERWISE**
8 **REQUIRES NCC TO CONVERT TO SS7 SIGNALING ON ITS**
9 **INTERCONNECTION TRUNKING?**

10 A. Yes. In fact, contrary to Mr. Lesser's contention on pages 11 and 12 of his
11 direct testimony, Qwest's proposed ICA does not force NCC to implement
12 SS7 but rather contains a provision for NCC to continue the use of MF
13 signaling for interconnection. In fact, Qwest's proposed language
14 accommodates NCC's insistence on its continued use of MF
15 interconnection signaling, predicated on the one-directional use of
16 interconnection trunks from Qwest to NCC that exists today. Mr. Lesser's
17 testimony misrepresents the impact of what Qwest has offered as a
18 compromise that will allow NCC to continue the use of MF in the way NCC
19 currently uses MF interconnection with Qwest.

20 **B. RECORDING OF NCC'S TRAFFIC**

21 **Q. MR. LESSER STATES THAT "QWEST ASSERTS THAT THEY DON'T**
22 **HAVE THE ABILITY TO TRACK THE USAGE" WITH MF SIGNALING.**
23 **CAN YOU PLEASE RESPOND?**

24 A. Yes. Mr. Lesser misrepresents Qwest's position. In fact, Qwest's switches
25 do allow Qwest to manually track overall MF signaled usage, and Qwest
26 has not argued to the contrary. Further, Qwest has offered compromise
27 language to address a portion of the traffic. However, MF signaling has

1 significant limitations, and those limitations include the inability to record
2 information associated with traffic that allows Qwest to accurately segregate
3 traffic on a jurisdictional basis. This is important because the lack of calling
4 party number or a bare measurement of overall minutes does not provide
5 an adequate basis for billing. The billing as well as the billed party's
6 validation of charges both requires knowledge of the jurisdictional nature of
7 the traffic, e.g., interstate, intrastate, local and transit. Qwest's tracking
8 associated with MF signaled trunks does not separately identify traffic that
9 would allow for accurate bill validation or generate appropriate billing.

10 **Q. MR. LESSER CLAIMS THAT IF QWEST WERE UNABLE TO TRACK MF**
11 **USAGE THAT WOULD MEAN THAT QWEST WAS, FOR DECADES,**
12 **BILLING CUSTOMERS WITHOUT TRACKING USAGE.⁸ IS THIS**
13 **CORRECT?**

14 A. No, of course not. While the issue in this arbitration is specific to the
15 recording and billing of local traffic, Mr. Lesser attempts to confuse this
16 issue by discussing Qwest's undisputed recording and billing associated
17 with toll traffic. Mr. Lesser is clearly referring to long distance trunks (i.e.,
18 trunks with IXCs) and does not acknowledge that local interconnection
19 service trunks are different. The differences can be explained by the history
20 and standard configuration of the network. As I also explain in my direct
21 testimony, after divestiture and prior to the Act, MF signaled trunking was
22 engineered to provide information specific to the type of traffic such as long
23 distance, Operator Services, or Directory Assistance. Such trunks were
24 segregated by traffic type and dedicated for the specific purpose for which
25 they were designed. This made the recording and validation of traffic fairly
26 straight forward, and required little more than counting the total number of
27 minutes on each trunk and comparing this total with that of the originating

⁸ Lesser Direct page 6

1 switch⁹ record. Additionally, local/Extended Area Service ("EAS") traffic was
2 typically exchanged (with MF Signaling) on a bill and keep basis; and,
3 because the carriers exchanging the traffic were both incumbents, and
4 traffic was believed to be roughly in balance, it was not necessary to create
5 billing records. After the Act, competitive carriers began the process of
6 agreeing upon rates for the exchange of local traffic. However, the
7 combination of different types of traffic on the same trunk - local, transit,
8 non-transit and possibly long distance - created a need for a more
9 advanced signaling and traffic recording system. SS7 signaling was the
10 available advanced signaling system that assisted with traffic recording and
11 provided more information on local calls that MF signaling simply does not
12 provide.

13 **Q. WHY DID QWEST IMPLEMENT SS7 LINK MONITORING FOR**
14 **RECORDING OF LOCAL TRAFFIC?**

15 A. As I also explained in my direct testimony, the Telecommunications Act of
16 1996 required reciprocal compensation for the transport and termination of
17 telecommunications traffic by Local Exchange Carriers (LECs).¹⁰ Because
18 local traffic was not previously recorded, the capabilities that existed with
19 SS7 signaling technology were implemented by Qwest to record local traffic.

20 Further, the use of SS7 based recordings also did not burden Qwest
21 network with the use of each of the hundreds of Qwest switches to record
22 every originating and terminating local call. But instead SS7 Link monitoring
23 relies upon a centralized network for such call data recording and storage.

24 Additionally, SS7 provides much more information associated with each call
25 than does the switch based recording of MF signaled traffic. Unlike MF

⁹ Originating switch; in the context used here is the first switching point in the LATA.

¹⁰ 47 U.S.C. Section 251(b) 5

1 signaling of local traffic, SS7 provides for the signaling of both the calling
2 and called numbers. Thus, jurisdiction can generally be determined.

3 SS7 technology is more efficient and reduces the fraudulent use of the
4 network. SS7 technology provides faster call set-up and makes it more
5 difficult for unscrupulous service providers to disguise the jurisdiction of
6 traffic as well as for the fraudulent use of the network by subscribers.

7 Finally, SS7 link monitoring technology provided the flexibility to bill for
8 additional innovative competitive services that interoperate with other
9 service providers. Such services include transit service and Local Number
10 Portability ("LNP").

11 **Q. MR. LESSER EXPLAINS THAT IT IS COMMON PRACTICE TO**
12 **EXCHANGE EMI FILES.¹¹ DOES QWEST EXCHANGE EMI FILES WITH**
13 **CLECS?**

14 **A.** Yes. Qwest uses its SS7 link monitoring capability to obtain data necessary
15 to populate EMI records associated with other CLEC's transit traffic. NCC
16 has signed an amendment to its current ICA to obtain such transit records
17 from Qwest. However, Qwest is unable to provide other CLECs similar
18 records associated with NCC's originating traffic, if any, because NCC
19 refuses to interconnect using SS7 trunk signaling. Although, NCC has
20 taken advantage of the fact that all other CLECs have SS7 interconnection,
21 NCC has left the other CLECs blind to NCC's originated local traffic. This
22 provides the ability for NCC to bill CLECs for a CLEC's terminating traffic
23 and possibly avoid being billed by other CLECs for NCC's originating local
24 traffic.

¹¹ Lesser Direct page 9

1 **Q. IS THE ACCURACY OF AN SS7 RECORDING DIFFERENT THAN A**
2 **SWITCH BASED RECORDING AS MR. LESSER CONTENDS?¹²**

3 A. No. The accuracy of records is only as good as the input used to create
4 them. Just as people may make programming or configuration mistakes
5 using SS7 link monitoring, people may also make mistakes programming or
6 configuring switch recording functions. Thus, Mr. Lesser's undocumented
7 example of NCC's alleged proof of SS7 recording inaccuracy was, as Mr.
8 Lesser admits, caused by human error and not because of any fundamental
9 inaccuracy of SS7 technology.

10 **C. NCC'S USE OF INDUSTRY STANDARDS**

11 **Q. MR. LESSER STATES "ALL CENTRAL OFFICE (CO'S) ON THE QWEST**
12 **NETWORK FOLLOW THE TELCORDIA DOCUMENT LSSGR (LATA**
13 **SWITCHING SYSTEM GENERIC REQUIREMENTS.) ONE OF THOSE**
14 **REQUIREMENTS IS THE SWITCH HAS A CDR (CALL DETAIL**
15 **RECORDING). IN OTHER WORDS, EVERY OUTBOUND AND INBOUND**
16 **CALL THAT IS MADE OR RECEIVED IS ELECTRONICALLY**
17 **RECORDED WITH ALL THE CALL DETAILS."¹³ IS MR. LESSER**
18 **CORRECT?**

19 A. No. Qwest deploys its central offices such that they generally follow the
20 Telcordia Document LSSGR. However, Telcordia's LSSGR does not
21 require every outbound and inbound call that is made or received to be
22 electronically recorded. Telcordia's GR-540-CORE, Issue 2, March 1999,
23 LSSGR: Tandem Supplement, A Module of LSSGR, FR-64 states the
24 following:

¹² Lesser Direct page 6

¹³ Lesser Direct page 9

1 8.1.1.3 LEC-to-LEC (Non-Recording)

2 There may still be trunks (sic) groups that are provisioned between
3 two LECs that are provisioned with the same interoffice trunking
4 and interface arrange (sic) that is used to connect EOs belonging to
5 the tandem switch owner. In these trunking arrangements the
6 interface specifies that no AMA be recorded on an outgoing basis.

7 Mr. Lesser's testimony is misleading. Clearly, Telcordia's LSSGR
8 recognizes that not all traffic that routes across Qwest's network may be
9 recorded by the switch.

10 **Q. DOES NCC RELY UPON INDUSTRY STANDARDS SUCH AS**
11 **TELCORDIA'S LSSGR?**

12 A. It is not clear if NCC relies upon any industry standards. When NCC was
13 asked in discovery to provide Telcordia standards citations supporting its
14 claims of the network capabilities, NCC claims that it had lost its only copy
15 of the LSSGR in a flood.¹⁴ Then NCC claimed it would attempt to respond if
16 Qwest would provide to NCC an electronic version of the LSSGR.
17 However, as I similarly pointed out and Mr. Lesser concurred in the Oregon
18 hearing, the Telcordia LSSGR is huge – it is more like a library of standards
19 rather than a simple standard document. Qwest no longer maintains a
20 complete copy of Telcordia's LSSGR and has not for over ten years.
21 Instead Qwest subscribes to Telcordia's on-line LSSGR standards library
22 with query access. If NCC has been keeping itself updated with Telcordia
23 LSSGR revisions and updates, it would also be aware of how Telcordia
24 offers access to its library and would either have obtained updated soft
25 copies or on-line access to Telcordia's library of standards as Qwest does.

¹⁴ NCC's Responses to Qwest's Second set of Arizona Discovery Requests 6.1

1 **Q. HAS NCC CLAIMED TO “KNOW” TELCORDIA’S LSSGR?**

2 A. Yes. In the Oregon hearing, Mr. Lesser claimed that the LSSGR is NCC’s
3 “bible”. However, NCC has been unable to cite to any provision within the
4 LSSGR that provides the foundation for its technical conclusions.

5 However, since I have worked for Qwest I have had the LSSGR
6 continuously available to me and often have revisited the standards for
7 reference. In fact, I rarely make it through a week without having to
8 reference some portion of the LSSGR or other industry standards to ensure
9 or reinforce my understanding. However, without an actual updated copy of
10 the LSSGR, Mr. Lesser is only guessing at the details of what the LSSGR
11 actually says. Since Mr. Lesser has failed to provide any factual citation to
12 any specific industry requirement or standard, rebuttal of his claims should
13 be unnecessary.

14 **Q. MR. LESSER STATES THAT SS7 SIGNALING IS SIMPLY ONE**
15 **INDUSTRY STANDARD AND SO IS MF SIGNALING.¹⁵ WOULD YOU**
16 **PLEASE RESPOND?**

17 A. Yes. Both SS7 and MF have standards that describe their capabilities.
18 However, the industry has recognized that MF trunk signaling is essentially
19 obsolete and that SS7 trunk signaling is the preferred method of signaling.
20 In fact, as early as 2000, the industry recognized this in SR-2275 Telcordia
21 Notes on the Networks:

22 6.4 Interoffice In-band Analog Signaling:

23
24 “The use of circuit-associated interoffice in-band [MF] analog
25 signaling call-completion and call-supervision methods and
26 techniques covered in Sections 6.5 and 6.6 [MF signaling] have
27 almost become obsolete in modern LEC interoffice networks. Their

¹⁵ Lesser Direct page 16

1 use has been replaced by CCS methods [SS7 signaling] described
2 in Section 6.23.”

3 In other words MF signaling (“in-band analog Signaling”) has generally
4 become obsolete and has been replaced by SS7 signaling (“CCS”). Again,
5 NCC claims to know the LSSGR but chooses to omit specific facts and fails
6 to back up its claims with industry standard citations that would allow the
7 parties to arrive at a common understanding consistent with the context of
8 NCC’s dispute.

9 **D. NCC’S CLAIM THAT SS7 IS UNRELIABLE**

10 **Q. NCC CLAIMS THAT SS7 HAS SINGLE POINTS OF FAILURE THAT MAY**
11 **“DISABLE THE WHOLE NETWORK”¹⁶. IS THIS CORRECT?**

12 A. No. The SS7 network is typically built with redundant and physical diversity
13 of the SS7 links as well as redundant and diverse mated pairs of SS7
14 Signaling Transfer Points (STPs) (routers). Thus, if a link is cut or an STP
15 fails, there is a spare one available to take over. However, this is not the
16 situation with MF signaling. Generally, if the MF trunk is severed both the
17 signaling path and the conversation path are lost.

18 **Q. DOES NCC FOLLOW INDUSTRY STANDARDS FOR SS7 DIVERSITY?**

19 A. No. NCC has admitted in its response to Qwest’s discovery that NCC has a
20 single point of failure “at NCC’s STP”¹⁷. Industry standards require that
21 network diversity (ergo, without single points of failure) is required to
22 minimize network downtime.¹⁸ Thus, based upon NCC’s response to
23 Qwest’s discovery and contrary to NCC’s “knowledge” of industry

¹⁶ Lesser Direct page 5

¹⁷ NCC’s Responses to Qwest’s Second set of Arizona Discovery Requests 3.1

¹⁸ Telcordia Technologies Specifications of Signaling System Number 7, General Requirements, GR-246
CORE, Issue 6, December 2001

1 standards, NCC admits that it has single points of failure that are contrary to
2 industry standards.

3 **Q. ADDITIONALLY, ON PAGE 5 OF HIS DIRECT TESTIMONY MR. LESSER**
4 **ASSERTS THAT IF SS7 WAS SO MUCH MORE RELIABLE THEN 911**
5 **TRUNKS WOULD HAVE BEEN THE FIRST TRUNKS TO BE**
6 **CONVERTED TO SS7. DO YOU AGREE?**

7 A. No. Mr. Lesser misses the point; SS7 was implemented for more than
8 merely its reliability. SS7 was implemented by Qwest and many other
9 RBOCs, CLECs, IXCs, and Wireless service providers because of multiple
10 benefits that SS7 provides. Combined, the efficiency, flexibility and
11 reliability, of SS7 provides carriers a platform to provide superior and
12 innovative services that MF networks simply cannot provide.

13 Further, it is not uncommon for businesses to implement new procedures
14 and technologies for the less critical aspects of their operations until they
15 are satisfied with the performance. This is just plain common sense.
16 Contrary to Mr. Lesser's incorrect conclusion, the SS7 network has proved
17 its reliability such that in Arizona, the majority of Qwest's 911 interoffice
18 circuits are SS7 and all but 1 of 19 CLECs in Arizona are using SS7
19 interconnection with Qwest's 911 network.

20 **E. NCC'S CLAIM OF DISCRIMINATION**

21 **Q. MR. LESSER ASSERTS THAT QWEST IS NOT REQUIRING RURAL**
22 **ILECS TO CONVERT TO SS7.¹⁹ WOULD YOU PLEASE RESPOND?**

23 A. All but one of the 17 Rural ILECs in Arizona has converted to SS7 on their
24 own. Even though the compensation for local traffic between Qwest and
25 the ILECs is generally Bill and Keep, the Rural ILECs clearly have seen the

¹⁹ Lesser Direct page 14

1 value in maintaining modern networks that include SS7 technology. There
2 is no need to require implementation of SS7 for Arizona Rural ILECs where
3 the Rural ILECs and even CLECs have embraced the technology.

4 **Q. DO CLECS IN ARIZONA USE SS7?**

5 A. Yes. All CLECs interconnected with Qwest in Arizona and Qwest's thirteen
6 other states use SS7, except for NCC.

7 **Q. MR. LESSER CRITICIZES QWEST BECAUSE THE LAST REMAINING**
8 **QWEST SWITCH WAS RECENTLY UPGRADED TO SS7.²⁰ CAN YOU**
9 **PLEASE RESPOND?**

10 A. Yes. The last switch that relied exclusively upon MF signaled trunking was
11 upgraded to use SS7 on April 30, 2010 and was located in the town of
12 Westport, Oregon. However, there was never a CLEC request for
13 interconnection in Westport and any such request would have triggered an
14 earlier conversion to SS7. In addition to the recording capabilities, such an
15 upgrade would have been necessary to provide efficient Local Number
16 Portability. Thus, Mr. Lesser's criticism is unwarranted.

17 **Q. WHEN DID QWEST DEPLOY SS7 TECHNOLOGY WHERE NCC**
18 **INTERCONNECTS WITH QWEST IN ARIZONA?**

19 A. Qwest has been operating with SS7 signaling at the switches where NCC is
20 interconnected since 1990. NCC, however, did not interconnect with Qwest
21 as a CLEC until after the Arizona Corporation Commission granted NCC a
22 Certificate of Public Convenience and Necessity in December of 1999.²¹
23 This was a full nine years after Qwest had deployed SS7. Clearly, SS7 was
24 well established in the Qwest switches prior to NCC's decision to
25 interconnect with Qwest.

²⁰ Lesser Direct page 12

²¹ Lesser Direct page 2

1 **Q. IS QWEST AWARE OF TRAFFIC THAT NCC ROUTES TO QWEST'S**
2 **END USERS?**

3 A. Yes. However, only through NCC's own admission on page 18 of Mr.
4 Lesser's direct testimony. Otherwise Qwest is unaware of such traffic. This
5 is because the limitations of traditional MF signaling do not allow the
6 transmission of calling party number associated with local calls (single stage
7 signaled). Thus, Qwest is unaware of any NCC originated local calls that
8 NCC routes to Qwest through another service provider (i.e. transit provider)
9 using MF signaling. NCC's current indirect routing of its originating traffic
10 does not comply with the parties' existing Interconnection Agreement that
11 requires direct interconnection.²² Qwest cannot be sure that there is not a
12 significant volume of local traffic from NCC destined to Qwest end users
13 unless NCC appropriately implements SS7.

14 **F. QWEST'S RESPONSE TO NCC'S DISCOVERY**

15 **Q. MR. LESSER CLAIMS ON PAGE 13 OF HIS DIRECT TESTIMONY THAT**
16 **QWEST HAS REFUSED TO ANSWER A DISCOVERY QUESTION**
17 **RELATED TO THE MF INTERCONNECTION THAT QWEST HAS WITH**
18 **ILECS. HAS QWEST RESPONDED TO NCC'S DISCOVERY**
19 **REGARDING QWEST'S MF TRUNKING WITH ILECS IN ARIZONA?**

20 A. Yes. However, Mr. Lesser's claim that Qwest refused to answer NCC's
21 discovery came in Mr. Lesser's December 15, 2010 direct testimony and
22 NCC's question was served upon Qwest on January 4, 2011, well after Mr.
23 Lesser's direct testimony. Further, Qwest responded fully to NCC's
24 discovery by stating that

²² See the parties' expired Interconnection Agreement section V.(A.)

1 NCC is the only CLEC that has MF interconnection trunks with
2 Qwest and Arizona Telephone Co. is the only ILEC that has MF
3 interconnection-like trunks with Qwest in Arizona.

4 **Q. MR. LESSER CONTINUES TO CLAIM THAT QWEST HAS REFUSED TO**
5 **ANSWER A DISCOVERY QUESTION RELATED TO THE MF**
6 **INTERCONNECTION THAT QWEST HAS WITH CLECS.²³ HAS QWEST**
7 **RESPONDED TO NCC'S DISCOVERY REGARDING QWEST'S MF**
8 **TRUNKING WITH CLECS IN ARIZONA?**

9 A. Yes. Again, Mr. Lesser's claim proceeds NCC's discovery request.
10 Further, Qwest has responded fully to NCC's discovery. Additionally, Qwest
11 has testified in both the Washington and Oregon arbitrations and now in
12 Arizona that NCC is the only CLEC in all of Qwest's 14 states (including
13 Arizona, Oregon and Washington) that exclusively uses MF trunking for
14 local interconnection.

15 **G. QWEST'S ATTEMPT TO VALIDATE NCC'S SS7 LIMITATION**

16 **Q. HAS QWEST MADE MULTIPLE ATTEMPTS TO OBTAIN NCC'S**
17 **ANSWERS TO QWEST'S DISCOVERY THAT PROVIDES SUFFICIENT**
18 **INFORMATION TO CORROBORATE NCC'S CLAIM THAT ITS**
19 **NETWORK IS NOT CAPABLE OF SS7?**

20 A. Yes. However, NCC has refused to provide sufficient information for Qwest
21 to validate NCC's claims with NCC's switch manufacturer, Lucent. Qwest
22 has made several attempts in Arizona to discover the make and model of
23 NCC's switching equipment and the equipment's signaling capabilities.
24 Qwest has yet to receive enough information where the manufacturer
25 NCC's switch can conclusively identify the equipment or its signaling

²³ Lesser Direct page 13

1 capabilities.²⁴ Thus, with NCC's evasive responses to Qwest's discovery
2 questions one can only assume that NCC's switches are actually SS7
3 capable.

4 **V. RESPONSE TO THE DIRECT TESTIMONY OF MR. TODD LESSER**
5 **REGARDING UNIDENTIFIED ARBITRATION ISSUES**

6 **Q. WHAT NEW ISSUES HAS MR. LESSER ADDRESSED IN HIS DIRECT**
7 **TESTIMONY THAT WERE NOT DISCLOSED IN THE PARTIES' JOINT**
8 **FILING OF DISPUTED ISSUES?**

9 A. Mr. Lesser asserts that Qwest should be required to send NCC ANI over
10 MF, be responsible for its own MUX, installation and monthly costs
11 associated with the LIS trunks interconnecting Qwest and NCC, pay NCC
12 for SS7 Links, query NCC's CNAM database, provide NCC free transit and
13 access records, and interconnect indirectly with NCC.

14 These issues were never formally identified by NCC when the parties
15 prepared the joint filing of disputed issues in this Arizona arbitration. Qwest
16 was not afforded the opportunity to address NCC's concerns either through
17 negotiation or through Qwest's direct testimony. While Ms. Albersheim will
18 address the responsibility for MUX costs, payment for SS7 links, Qwest's
19 charges for providing transit and access records, and NCC's use of a third
20 party transit provider, I will address the signaling of ANI and the query of
21 NCC's CNAM database. Although Qwest addresses these issues in its
22 rebuttal testimony, Qwest respectfully requests that the commission exclude
23 these issues from this arbitration.

²⁴ See NCC's response to Qwest's first and third set of data requests Exhibit PL-4 and Exhibit PL-5

1 **A. NCC'S DEMAND FOR QWEST TO SIGNAL ANI OVER NCC'S MF TRUNKS**

2 **Q. NCC INCORRECTLY CLAIMS THAT QWEST'S NETWORK CAN**
3 **PROVIDE CALL IDENTIFYING INFORMATION TO NCC'S NETWORK**
4 **USING MF SIGNALING. IS NCC ON THIS POINT?**

5 A. No. Call signaling may provide different information depending upon the
6 direction of traffic. For example, originating equal access (Feature Group
7 D) traffic from a LEC over LIS trunks is signaled with information that allows
8 the traffic to be routed to the appropriate Interexchange Carrier's ("IXC")
9 network. Additionally, customer billing information²⁵ is also signaled to
10 enable the IXC to appropriately bill its customers. However, traffic that
11 terminates to a LEC over LIS MF trunks that comes from an IXC does not
12 contain the signaling of such routing and billing information. This is
13 because subscriber billing information a.k.a. ANI is not used for billing long
14 distance charges by the terminating LEC. In other words, long distance
15 subscribers are typically only charged for originating long distance calls and
16 not for terminating long distance calls. Thus, because there is no IXC
17 routing or billing requirement, MF signaling of local traffic does not contain
18 originating subscriber information on the terminating end of long distance
19 traffic. This is not a limitation of SS7 signaling and is additional information
20 used by Qwest to validate bills and bill CLECs for local traffic.

²⁵ Although customer billing number (a.k.a. ANI) can sometimes be the same number as the calling party number, the billing number cannot be accurately substituted for calling party number.

1 **Q. DOES MR. LESSER MAKE ATTEMPTS TO MINIMIZE THE**
2 **IMPORTANCE OF “CLASS OF SERVICE” AND QWEST’S ABILITY TO**
3 **PROVIDE OR RECEIVE ANI ON A LOCAL CALL?**

4 **A. Yes. On page 6 of his direct testimony Mr. Lesser states that:**

5 “Local interconnection trunks are no different than IXC trunks.
6 They use the exact same equipment. The only difference is the
7 class of service on the trunks.”

8 NCC claims that the trunking uses the same equipment. However, what Mr.
9 Lesser attempts to minimize is that the class of service is a significant
10 difference between local interconnection trunks and IXC trunks. Local
11 interconnection trunks are assigned a “local” class of service and IXC trunks
12 are assigned a “toll” class of service. The class of service is what defines
13 the function of the trunks. Thus, a local class of service trunk group is used
14 for originating local traffic to be routed over a MF signaled local
15 interconnection trunk, and by definition of its class of service, is routed using
16 single-stage traditional signaling without the transmission of ANI. However,
17 originating toll traffic destined for MF signaled IXC trunks is routed using
18 two-stage signaling with ANI. The single-stage or two-stage nature of
19 signaling is determined by the local or toll type of traffic, i.e. class of service.

20 Mr. Lesser then goes on to incorrectly explain at the bottom of page 7 that
21 Qwest has the technical ability to provide NCC ANI on MF trunk groups and
22 that it “is a simple Class of Service option on the trunk group.” Additionally,
23 on page 9 of his direct, Mr. Lesser claims that it would cost Qwest nothing
24 to provide ANI to NCC and that “(i)t is just a Class of Service change on our
25 trunk group.” On page 10 Mr. Lesser claims that it “is a simple trunk
26 configuration.” What Mr. Lesser fails to explain is that a change in class of
27 service changes how the traffic would be treated. For example local traffic,
28 if originated over a trunk configured for toll, may be routed or billed
29 improperly. In other words, the “simple” class of service reference is

1 misleading – it is not simple and it is not unimportant – it is very significant.
2 Interexchange carriers pay access charges and require the signaling of
3 customer billing information associated with toll traffic, and they get a
4 different service configuration as a result. As Ms. Albersheim notes, ANI is
5 generally limited to toll trunks, and by contract, ANI is not available on local
6 trunks, even in the parties' expired existing contract.

7 **Q. DOES NCC'S RESPONSE TO QWEST'S DISCOVERY SUPPORT YOUR**
8 **TESTIMONY REGARDING "CLASS OF SERVICE"?**

9 A. Yes. In Mr. Lesser's testimony he explains that to provide NCC ANI on
10 local MF trunk groups it "is a simple Class of Service option on the trunk
11 group." However, in NCC's response to Qwest's first set of discovery in
12 Oregon, Request 24, NCC's response admits the class of service difference
13 between local interconnection trunks and IXC trunks are that
14 "Local interconnection trunks are used for local calls and IXC trunks groups
15 are used for long distance calls." Thus, Mr. Lesser appears to be
16 suggesting that Qwest modify NCC's local trunk groups to be toll trunk
17 groups but use them to route local traffic. This makes no sense since the
18 objective of local interconnection and local trunking is to exchange local
19 traffic. This would be like attempting to change the meaning of a red traffic
20 light to "go" instead of "stop". Obvious problems would result if it is not an
21 accepted standard across the industry. The same is true with Mr. Lesser's
22 proposal. NCC is attempting to configure a network that is inconsistent with
23 industry standards or industry practice. NCC has not approached the
24 industry standards groups to attempt to have its proposal accepted.²⁶ Thus,
25 NCC is not taking into consideration how its actions may impact, not just
26 Qwest but, the remainder of the industry.

²⁶ NCC is not a member of the Alliance for Telecommunications Industry Solutions ("ATIS") that provides consensus based industry standards with over 250 active participating communications companies and is accredited by the American National Standards Institute ("ANSI") and recognized across the telecommunications industry.

1 **Q. DOES QWEST PROVIDE ANI ON LOCAL CALLS OVER LOCAL**
2 **TRUNKS TO ANY OTHER LOCAL CARRIER IN ARIZONA OR IN ANY**
3 **OTHER OF QWEST'S 13 STATE REGION?**

4 A. No. This is neither an industry practice nor an industry standard.

5 **Q. DOES MR. LESSER PROVIDE A COMPLETE EXPLANATION OF MF**
6 **SIGNALED LOCAL TRUNKS AND THEIR CAPABILITY TO PROVIDE**
7 **"CALLING PARTY INFORMATION"?**²⁷

8 A. No. Mr. Lesser over generalizes the capability of MF trunk signaling. MF
9 signaling is generally either single stage or two-stage. Single stage trunk
10 signaling is typically known as "traditional signaling"²⁸. This type of MF
11 trunk signaling is used for local traffic. MF traditional signaling²⁹ is used to
12 signal only the called party's number between network switches. This is
13 because a local call is terminated without terminating charges to the
14 originating customer. ANI is information that provides authorization to
15 process the customer's (billable) call and is provided to allow for the billing
16 of the appropriate account. Such customer billing information (i.e. ANI) is
17 not needed or used for local traffic terminated by a local exchange carrier,
18 nor is it expected that an originating customer be billed by a terminating
19 carrier for a local call. Additionally, Qwest's telecommunication switches
20 come with software that is designed to use the appropriate signaling as is
21 prescribed by industry standards and is reflected in the "Class of Service"
22 options of the switch software. For example, a call that has been
23 determined by the originating end office switch software to be routed as

²⁷ Lesser Direct page 7

²⁸ BELCORE, GR-690-CORE Issue 2, October 1995, Exchange Access Interconnection FSD 20-24-000, A Module of LSSGR, FR-64

²⁹ SS7 provides an enhanced sort of traditional signaling described in Telcordia Technologies GR-317-CORE, Issue 7, December 2003, LSSGR: Switching Generic Requirements for Call Control Using the Integrated Services Digital Network User Part (ISDNUP), A Module of LSSGR, FR-64 (a.k.a. the call control portion of the SS7 signaling protocol)

1 local will automatically provide traditional signaling, i.e. signaling that does
2 not include ANI. Thus, the trunk signaling between switches requires only
3 the called number or what is known as traditional signaling.

4 **Q. DOES ANY OTHER CARRIER PROVIDE ANI ON LOCAL CALLS OVER**
5 **LOCAL TRUNKS TO QWEST IN ARIZONA OR IN ANY OTHER STATE**
6 **IN QWEST'S 13 STATE REGION?**

7 A. No. This is neither an industry practice nor an industry standard.

8 **Q. IS IT POSSIBLE FOR QWEST TO PROVIDE NCC WITH ANI FOR**
9 **LOCAL CALLS THAT ORIGINATE ON OTHER CARRIERS' NETWORKS**
10 **WHEN NO OTHER CARRIER PROVIDES ANI ON LOCAL CALLS OVER**
11 **LOCAL TRUNKS TO QWEST IN ARIZONA OR IN ANY OTHER OF**
12 **QWEST'S 13 STATE REGION?**

13 A. No. Currently, there is no technical way for Qwest to generate ANI
14 information associated with a customer of another carrier's network. NCC's
15 request for Qwest to signal ANI to NCC over its MF trunks would be
16 impossible as the network currently exists. The only way to accommodate
17 NCC's request would be to require all carriers in Arizona to signal the ANI
18 equivalent information in an attempt to accommodate NCC's request. This
19 would require switch manufacturers to redesign their switches so that the
20 switches could generate the necessary SS7 signaling to provide NCC with
21 its demand for ANI.

22 **Q. DOES MR. LESSER MISCHARACTERIZE WHAT ANI REPRESENTS?**

23 A. Yes. Mr. Lesser over generalizes ANI to represent calling party information.
24 As I described above ANI is the billing information associated with the
25 originating customer. ANI should not be equated to the Calling Party

1 Number ("CPN") SS7 parameter.³⁰ The ANI equivalent SS7 parameter is
2 the Charge Number ("CN") Parameter and is not transferred end to end as
3 CPN is with SS7³¹. Thus, the ANI cannot be relied upon to reflect the actual
4 calling party. For example, often a single billing telephone number may be
5 assigned to multiple telephone users. A corporate office building may have
6 many telephone users, each with unique telephone numbers. However,
7 long distance calling from each user can have a single billing telephone
8 number, i.e. the ANI that would allow the IXC's billing of long distance
9 service to a single corporate account.

10 **Q. CAN THE SCENARIO YOU JUST DESCRIBED BE USED**
11 **INAPPROPRIATELY TO AVOID INTERCARRIER COMPENSATION**
12 **(ACCESS CHARGES)?**

13 A. Yes. This same scenario can also be used to arbitrage the system by
14 allowing long distance traffic to route over an MF signaled trunk that is
15 incapable of sending the Calling Party Number. Thus, traffic that would
16 otherwise be subject to terminating access charges would incorrectly
17 appear to be local traffic and not subject to terminating access charges.

³⁰ "Section 4.1.3.1 If interworking from MF to SS7 is encountered in either the originating network or an Interconnecting CCs Network, then the CPN parameter should not be included in the IAM delivered to the terminating LATA. Although it is technically possible to generate address information for the CPN from ANI information, this procedure may provide incorrect address information and the correct presentation restricted indication is not known at an interworking point." Telcordia Technologies GR-905-CORE, Issue 8 December 2004, Common Channel Signaling Network Interface Specification (CCSNIS) Supporting Network Interconnection, Message Transfer Part (MTP), and Integrated Services Digital Network User Part (ISDNUP) A Module of CCSNIS, FR-905.

³¹ "The end-to-end transfer of the calling party number is a feature available with SS7 call establishment that is not generally available in MF signaling." Telcordia Technologies Generic Requirements GR-394-CORE Issue 7 December 2003; LSSGR: Switching System Generic Requirements for Interexchange Carrier Interconnection (ICI) Using the Integrated Services Digital Network User Part (ISDNUP) (A Module of LSSGR, FR-64)

1 **Q. HOW DO TELCORDIA'S LSSGR AND ITS ASSOCIATED STANDARDS**
2 **DEFINE ANI?**

3 A. ANI is referenced throughout the different requirements of Telcordia's
4 LSSGR and associated standards as billing information that is necessary for
5 carriers to bill the subscriber. For example Telcordia's BR-795-400-100
6 COMMON LANGUAGE® Message Trunk Circuit Codes standard defines
7 ANI as:

8 Automatic equipment at a local dial central office used on customer
9 dialed toll calls(emphasis added) to identify the calling station and
10 transmit its identity to the CAMA equipment by sending
11 multifrequency pulses over the same trunk after the dial pulsing is
12 completed.

13 The above definition explains that ANI is used to identify the end user's
14 billing information so that the switch may record (using Centralized
15 Automatic Message Accounting ("CAMA") equipment) the information
16 necessary for the end user to be billed for toll usage.

17 However, where there is no requirement for end user billing, the LSSGR
18 requirements do not include the requirement for ANI. For example,
19 Telcordia's GR-540-CORE LSSGR: Tandem Supplement requires:

20 R5-32: For incoming MF trunks using single-stage signaling (*i.e.,*
21 *non- FGD MF trunks with called party digits only*)(*emphasis added*),
22 the tandem system shall begin route selection after the end of
23 called party digit reception.

24 The above Requirement explains that for traffic that only requires the called
25 party information, i.e. local traffic, the routing should begin immediately
26 upon the receipt of the called number. The requirement does not include
27 the signaling of ANI because there is no need for end user billing
28 information for local traffic.

1 **Q. MR. LESSER CLAIMS THAT VERIZON IS ONE OF SEVERAL LECS**
2 **THAT HAS PROVIDED ANI OVER LOCAL INTERCONNECTION**
3 **TRUNKS.³² IS MR. LESSER'S TESTIMONY ACCURATE.**

4 A. No. It is my understanding that Verizon's local network operates similar to
5 Qwest's such that ANI is not provided over MF trunking for either local or toll
6 traffic that terminates from Qwest's network to other LECs such as NCC.

7 **B. NCC'S DEMAND FOR QWEST TO QUERY NCC'S CNAM DATABASE**

8 **Q. MR. LESSER ARGUES THAT QWEST IS DISCRIMINATING AGAINST**
9 **NCC BY REFUSING TO PURCHASE CNAM DATA.³³ IS QWEST**
10 **DISCRIMINATING AGAINST NCC OR OTHER CLECS FROM WHOM**
11 **QWEST DOES NOT PURCHASE CNAM DATA?**

12 A. No. Qwest offers its CNAM service on a non-discriminatory basis. The
13 same terms of Qwest's CNAM service are available to all LECs. However,
14 just because NCC has decided to sign an agreement to purchase CNAM
15 service from Qwest does not obligate Qwest to purchase service from NCC.

16 **Q. WHY HAS NCC MADE CNAM AN ISSUE IN THIS ARBITRATION?**

17 A. I am not sure. CNAM is a SS7 based service. However, NCC has claimed
18 that converting to SS7 would require replacement of its entire network.
19 CNAM associated with interconnection that NCC has with Qwest will not
20 work unless NCC implements SS7 interconnection with Qwest.
21 Additionally, the traffic that is exchanged between Qwest and NCC is almost
22 entirely one way from Qwest to NCC. Traffic that is from Qwest to NCC
23 would not require Qwest to query NCC's CNAM database but would require

³² Lesser Direct page 10

³³ Lesser Direct page 18

1 NCC to query Qwest's CNAM database. Thus, NCC's intent to demand
2 Qwest query NCC's CNAM database is unclear.

3 **Q. MR. LESSER TESTIFIES THAT WITHOUT QWEST PURCHASING CNAM**
4 **FROM NCC THAT THE CALLING NAME WILL NOT SHOW UP ON THE**
5 **CALLER ID WHEN NCC CUSTOMERS CALL QWEST'S CUSTOMERS.³⁴**
6 **IS MR. LESSER CORRECT?**

7 A. No. Qwest's CNAM agreement allows for CLECs like NCC to have their
8 own customer information input into Qwest's CNAM database. This would
9 provide for NCC's customer information to display on Qwest's customer's
10 caller ID equipment. However, NCC uses MF signaling and MF signaling
11 does not support CNAM. As I explained above, CNAM is a SS7 based
12 service. Additionally, CNAM uses the Calling Party Number ("CPN")
13 Parameter of the SS7 signaling protocol to obtain CNAM data. CPN is not
14 information provided by MF signaling making it impossible to obtain
15 accurate CNAM data that would be displayed on Caller ID devices.
16 Similarly, it makes no sense when Mr. Lesser provides this as a reason why
17 NCC does not send outbound calls over interconnection trunks with Qwest
18 and has chosen to use other carriers to send this traffic to Qwest. This is
19 because NCC claims that its network is only capable of MF signaled
20 interconnection. Whether NCC uses MF signaling with Qwest or MF
21 signaling with other carriers, the same limitation applies. CNAM is SS7
22 based and MF signaling is not capable of accurately supporting CNAM.
23 Further, it is my understanding that Qwest has no legal obligation to
24 purchase CNAM from NCC even if NCC were to convert its network to SS7.

³⁴ Lesser Direct page 18

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VI. CONCLUSION

2 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

3 **A. Yes.**



Todd Lesser <todd@nccom.com> on 04/19/2001 10:12:36 AM

To: Nancy Batz <nbatz@uswest.com>
cc:
Subject Re: North County AZ Statement

On 2001-04-18 at 18:08, you wrote:

> Hi Todd!
> I was reviewing North County's 4/1/2001 bill statement for AZ and had a question
> about the rate being used. The \$.006 rate is the tandem switch rate including
> end office call termination and tandem transport. I believe that only the end
> office rate of \$.004 per minute of use should apply, however. Section V.D.1.d.
> of the AZ interconnection agreement states: "For purposes of call termination,
> the initial North County switch shall be treated as an end office switch."
>
> Would you please review North County's rate and let me know your thoughts?

It was nice to hear from you. I have reviewed the interconnection agreement and agree with your interpretation. Our tandem switch will be installed when we convert to SS7. Once it is installed and trunks are set up, we can adjust the rate at that time.

Will this work for you?

← Reply

I will fax a new bill today.

Thank you for your help.

--

Todd Lesser

Voice: +1 619 364 4750

Fax: +1 619 364 4777

E-Mail: todd@nccom.com

Batz, Nancy

February 11, 2011
Page 1 of 1

From: Brunk, AnnMarie
Sent: Wednesday, February 14, 2007 8:30 AM
To: 'Todd Lesser'
Cc: Batz, Nancy
Subject: RE: CNAM/LIDB Contract

Todd,

Please call me to discuss your request as I'm needing additional information.

Thanks!
Ann Marie
970-377-0199

-----Original Message-----

From: Todd Lesser [mailto:todd@nccom.com]
Sent: Tuesday, February 13, 2007 6:14 PM
To: Brunk, AnnMarie
Cc: Batz, Nancy
Subject: Re: CNAM/LIDB Contract

On 2007-02-13 at 19:03, Brunk, AnnMarie (AnnMarie.Brunk@qwest.com) wrote:

> As you know, ICNAM is a CLASS service (SS7) and I understand you only have MF trunk groups, no SS7. Will you be upgrading your network to SS7 capable standards?

Our equipment is SS7 in San Diego. We do all the CNAM and LIDB out of there.

> As for Qwest purchasing NCC's ICNAM information - I need more information in order to assist you with this question. Where is the STP located that contains specific NCC data related to ICNAM, and what are the connection requirements to connect to your STP?

Our STP is located in San Diego. We don't have any specific requirements to connect up to the STP. Currently, you can access it through our links to Verisign.

RESPONSE FIRST SET OF DATA REQUESTS

REQUEST 1: Please provide any and all documentation that explains the capabilities of North County's switching equipment used to provide service in Arizona. Such documentation should include the manufacturer, model and serial number(s) specific to the switching equipment that is currently in use by North County to provide service in the state of Arizona

RESPONSE: NCC objects to the request on the grounds that it is overbroad, unduly burdensome, and seeks non-public confidential, trade secret information. NCC objects further to the request on the grounds that it seeks information that is irrelevant to the proceedings. Without waiving its objections, NCC responds that it uses Lucent switching (Model 2000; 8- and 16-port Hicap interfaces). Qwest has a complete set of Lucent documentation and manuals.

DATED this 20th day of December, 2010.

MCNAMER & COMPANY PC

s/Anthony McNamer
ANTHONY MCNAMER
920 SW Third, Ste. 200
Portland, OR 97214
Telephone: (503) 727-2500
Facsimile: (503) 727-2501
Email: anthony@mcnamerlaw.com
Attorneys for North County Communications
Corporation of Arizona

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BEFORE THE

ARIZONA CORPORATION COMMISSION

COMMISSIONERS:

KRISTEN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF QWEST CORPORATION'S
PETITION FOR ARBITRATION AND APPROVAL
OF INTERCONNECTION AGREEMENT WITH
NORTH COUNTY COMMUNICATIONS
CORPORATION OF ARIZONA PURSUANT TO
SECTION 252(B) OF THE COMMUNICATIONS
ACT OF 1934 AS AMENDED BY THE
TELECOMMUNICATIONS ACT OF 1996 AND
APPLICABLE STATE LAWS.

DOCKET NO. T-01051B-09-0383
DOCKET NO. T-03335A-09-0383

**NCC'S RESPONSES TO QWEST'S
THIRD SET OF DATA REQUESTS
(INCLUDING AMENDED DATA
REQUEST 3.2)**

North County Communications Corporation of Arizona ("NCC") responds to Qwest Corporation's Second Set of Data Requests as set forth below.

GENERAL OBJECTIONS

1. NCC objects to the Instructions to the extent they purport to require any action or response beyond what is required by the relevant rules, including the Arizona Administrative Code.
2. NCC objects to the extent that any Request seeks documents or information protected from disclosure by any evidentiary privilege, including without limitation the attorney-client privilege and work product doctrine. NCC does not intend to produce any privileged documents.
3. Each response is provided subject to all appropriate objections, including without limitation objections concerning competency, relevancy, materiality, propriety, and admissibility that would require the exclusion of any statement contained if a witness present and testifying made the statement. All such objections and grounds are reserved and may be interposed at the time of hearing or at such other time as may be appropriate.

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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 emailing the original to the following:

Norman G. Curtright
QWEST CORPORATION
20 East Thomas Rd., 16th Floor
Phoenix AZ 85012
norm.curtright@qwest.com

Dated this 26th day of January, 2011, in Portland, Oregon.

Respectfully submitted,

s/Anthony McNamer
Anthony E. McNamer
McNamer and Company, PC
920 SW Third Avenue, Suite 200
Portland, Oregon 97204
Telephone: (503) 727-2500
Facsimile: (503) 727-2501
Attorneys for North County
Communications Corporation of Arizona

BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE
Chairman
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner
BRENDA BURNS
Commissioner

**IN THE MATTER OF QWEST)
CORPORATION'S PETITION FOR)
ARBITRATION AND APPROVAL OF)
INTERCONNECTION AGREEMENT)
WITH NORTH COUNTY)
COMMUNICATIONS CORPORATION)
OF ARIZONA PURSUANT TO)
SECTION 252(B) OF THE)
COMMUNICATIONS ACT OF 1934 AS)
AMENDED BY THE)
TELECOMMUNICATIONS ACT OF)
1996 AND APPLICABLE STATE)
LAWS.)
)**

Docket No. T-01051B-09-0383
T-03335A-09-0383

REBUTTAL TESTIMONY

OF

RENÉE ALBERSHEIM

ON BEHALF OF

QWEST CORPORATION

FEBRUARY 11, 2011

**REBUTTAL TESTIMONY OF RENEE ALBERSHEIM
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1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.**

3 A. My name is Renée Albersheim. I am employed by Qwest Corporation ("Qwest"),
4 as a Staff Advocate. I am testifying on behalf of Qwest. My business address is
5 930 15th Street, 6th Floor, Denver, Colorado, 80202.

6 **Q. ARE YOU THE SAME RENÉE ALBERSHEIM THAT SUBMITTED DIRECT**
7 **TESTIMONY ON DECEMBER 15, 2010?**

8 A. Yes, I am.

9 **II. PURPOSE OF TESTIMONY**

10 **Q. WHAT IS THE PURPOSE OF YOUR RESPONSIVE TESTIMONY?**

11 A. The purpose of my testimony is to respond to the contract issues raised in the
12 testimony of Mr. Todd Lesser on behalf of North County Communications
13 Corporation, Inc. ("North County").

14 **Q. FIRST, CAN YOU MAKE A GENERAL OBSERVATION OF MR. LESSER'S**
15 **TESTIMONY REGARDING THE INTERCONNECTION AGREEMENT?**

16 A. North County appears to be arguing for retention of the existing, expired,
17 interconnection agreement ("ICA"). North County also appears to be arguing in
18 favor of retaining its ability to use MF signaling.

19 **Q. IN GENERAL, WHAT IS QWEST'S RESPONSE TO NORTH COUNTY'S**
20 **POSITION?**

21 A. In general, Qwest believes that North County has not provided any real support
22 for retaining the outdated ICA, and has not shown that any of the terms proposed
23 by Qwest in the new ICA are unlawful, prejudicial, or otherwise inconsistent with
24 public policy. Furthermore, Qwest's arbitration position allows North County to

1 retain MF signaling. Qwest believes this adequately addresses North County's
2 concerns over being required to convert to SS7.

3 **Q. MR. LESSER CLAIMS THAT QWEST IS ARBITRARILY TRYING TO CANCEL**
4 **NORTH COUNTY'S CONTRACT.¹ IS THAT ACCURATE?**

5 A. No. The terms of the contract itself have determined the state of the contract.
6 Section V. states:

7 This agreement shall be effective for a period of 2 ½ years, and thereafter
8 the Agreement shall continue in force and effect unless and until a new
9 agreement, addressing all of the terms of this Agreement, becomes
10 effective between the Parties. The Parties agree to commence
11 negotiations on a new agreement no later than two years after this
12 Agreement becomes effective.

13 Thus by its own terms, this contract, which Mr. Lesser signed, was only intended
14 to be effective 2 ½ years, at which time the parties should have commenced
15 negotiations 11 years ago. It is Qwest's desire to replace this very old
16 agreement with one that reflects current terms and conditions, and current
17 business processes.

18 **Q. MR. LESSER CLAIMS THAT ALL OF THE CHANGES IN THE PROPOSED**
19 **ICA ARE FOR QWEST'S SOLE BENEFIT.² IS THAT ACCURATE?**

20 A. No. As I stated in my direct testimony, the proposed ICA is based on Qwest's
21 Negotiations Template, an updated template contract which is based upon
22 provisions that originated in Qwest's Statement of Generally Available Terms and
23 Conditions ("SGAT"). The SGAT was created and produced by an industry
24 collaboration during the Section 271 process in which industry participants
25 played a significant role in drafting the language that governs Qwest's

¹ See Lesser Direct at page 4.

² Lesser Direct at page 19.

1 relationship with CLECs. The proposed agreement was not written solely by
2 Qwest, and is certainly not solely for the benefit of Qwest.

3 **Q. HAS THIS COMMISSION ALREADY DETERMINED THAT IT IS**
4 **APPROPRIATE TO NEGOTIATE THE TERMS OF A NEW AGREEMENT**
5 **UNDER THE TERMS OF THE PRIOR AGREEMENT?**

6 **A.** Yes. Mr. Lesser's testimony seems to ignore that this is already a settled issue.
7 The Commission stated in its order dated September 30, 2010 :

8 By its own terms, the ICA recognizes that it can be renegotiated after two
9 years. The ICA language does not prevent Qwest from seeking
10 renegotiation of a modification or successor agreement. Indeed,
11 according to its own statements to this Commission, North County was
12 negotiating the ICA with Qwest for months.

13 ...

14 To deprive the ILEC the ability to seek re-negotiation of an ICA, when
15 such right is recognized in the ICA itself, gives all the power to the CLEC,
16 and is unfair. To deprive the ILEC of the ability to seek arbitration when
17 negotiations fail, deprives the ILEC of the protection and benefits afforded
18 by the 1996 Act.

19 Section 252 contains no limit on the number of arbitrations a state
20 commission can conduct. North County's position could lead to the
21 strange result of a CLEC forcing an ICA to remain in effect in perpetuity, or
22 forcing Qwest to terminate the agreement, which would appear to create a
23 hardship on North County's customers. North County's view of the 1996
24 Act would divest state commissions of their long-established role as
25 arbitrators, and there is no indication that Congress intended such result.³

³ See *In the Matter of Qwest Corporation's Petition for Arbitration and Approval of Interconnection Agreement with North County Communications Corporation of Arizona Pursuant to Section 252(B) of the Communications Act of 1934 as Amended by the Telecommunications Act of 1996 and Applicable State Laws*, Docket No. T-03335A-09-0383, Docket No. T-01051B-09-0383, Procedural Order by the Commission, September 30, 2010.

1 **Q. SO IS IT APPROPRIATE FOR MR. LESSER TO ASK THIS COMMISSION TO**
2 **“REJECT THE PROPOSED ICA IN ITS ENTIRETY”?**

3 A. No. Not only is it not appropriate it is not practical. Mr. Lesser would have the
4 Commission retain the old agreement, which this Commission has already
5 determined is not consistent with the terms of the expired agreement. It is also
6 impractical in that, as I have stated before, the expired agreement is out of date,
7 does not clearly reflect changes in law, and does not reflect Qwest's current
8 business practices and processes. It would have been more appropriate for
9 North County to propose alternative language for the Commission to consider if it
10 had any issues with Qwest's proposed terms and conditions. Failing that, the
11 only practical alternative is for this Commission to adopt Qwest's agreement in its
12 entirety.

13 **Q. HAVE THE ISSUES IN THIS ARBITRATION BEEN RAISED IN OTHER**
14 **STATES?**

15 A. Yes. The parties have arbitrated nearly identical issues in Washington and
16 Oregon. Neither commission has adopted NCC's position on any issue.⁴

17 **III. THE IMPACT OF SIGNALING ON BILLING**

18 **Q. MR. LESSER STATES THAT “QWEST ASSERTS THAT THEY DON'T HAVE**
19 **THE ABILITY TO TRACK USAGE” WITH MF SIGNALING.⁵ CAN YOU**
20 **PLEASE RESPOND?**

21 A. Yes. North County's witness misrepresents Qwest's position. MF signaling
22 does allow carriers to track overall usage, and Qwest has not argued to the
23 contrary. However, MF signaling has significant limitations. Those limitations
24 include the inability to segregate traffic on a jurisdictional basis. This is important

⁴ See Exhibit RA-7 WA Arbitrators Report and Decision, and Exhibit RA-8 OR Arbitrator's Decision. It should be noted that North County has filed comments objecting to the Oregon Arbitrator's decision.

⁵ Lesser Direct at page 6.

1 because a bare measurement of overall minutes does not provide a basis for
2 billing. Billing is based on the jurisdictional nature of the traffic, i.e. interstate,
3 intrastate and local, as well as transit versus non-transit usage.

4 **Q. HAS QWEST EXPERIENCED BILLING ISSUES AS A RESULT OF NORTH**
5 **COUNTY'S USE OF MF SIGNALLING?**

6 A. Yes. First, in my Direct Testimony, I have presented information about a billing
7 dispute for charges that predate Qwest's request to negotiate a new ICA. It was
8 this billing dispute, (among other factors such as the age and outdated nature of
9 the original ICA), that prompted Qwest to make the request to negotiate a new
10 contract with North County.

11 Second, even if there were no billing disputes, Qwest has the right under the
12 original ICA to request negotiation, and arbitration, of a new ICA. As noted in my
13 direct testimony, a number of CLECs in Arizona have ICAs with essentially the
14 same terms that Qwest is seeking here, and there are no ICA disputes or
15 complaints pending before this Commission on any of those provisions. The
16 exceptions to the standard terms and conditions are section 7.8 and other
17 portions of section 7, which were created by Qwest specifically for North County
18 to accommodate North County's desire to continue to use MF signaling. NCC
19 has had the template agreement for over two years, and, with regard to, the
20 modified section 7.8, North County has had that language for nearly a year.
21 NCC has not made a substantive response to Qwest's negotiators with regard to
22 whether it meets North County's needs, and if not, why not.

1 And third, of the 335 invoices Qwest has received from North County, Qwest has
2 disputed 147.⁶ The terms contained in Qwest's proposed language for section
3 7.8 of the new ICA are an effort to eliminate such disputes.

4 **Q. MR. LESSER CLAIMS THAT QWEST HAS THE ABILITY TO TRACK AND**
5 **BILL CALLS MADE ON MF TRUNKS.⁷ PLEASE RESPOND.**

6 A. While Mr. Lesser makes an argument regarding Qwest's technical capabilities,
7 he ignores the economic and practical realities of Qwest's operations. Qwest's
8 automated billing systems rely on data generated via SS7 signaling to bill
9 Qwest's CLEC customers and validate CLECs' bills to Qwest. It is not practical
10 or reasonable to expect Qwest to re-engineer its automated billing systems to
11 deal with older technology for just one customer. In fact, the language that
12 Qwest has proposed for North County requires Qwest to generate the data it will
13 send to North County and Qwest can only do so manually, rather than via its
14 automated systems. In an effort to meet North County's needs, Qwest is willing
15 to bypass its automated billing systems to allow North County to continue to use
16 MF signaling for Qwest originated traffic, but with certain reasonable limitations
17 designed to protect Qwest without causing undue burden on either party.

18 **Q. DOES THE CURRENT (EXPIRED) CONTRACT ADDRESS MR. LESSER'S**
19 **CLAIMS REGARDING QWEST'S ABILITY/OBLIGATION TO PROVIDE**
20 **AUTOMATIC NUMBER IDENTIFICATION ("ANI") OVER MF TRUNKS?**

21 A. Yes. In the definition section, ANI is defined as being limited in its availability to
22 Feature Group D toll trunks. However, the interconnection trunks at issue in this
23 case are local trunks, not Feature Group D toll. The current(expired) ICA does

⁶ See Exhibit RA-6 Summary of Billing Disputes.

⁷ Lesser Direct at page 7.

1 not provide for ANI over local MF trunks. Mr. Linse discusses the technical
2 issues associated with ANI in his testimony.

3 **Q. IN A DATA REQUEST IN OREGON, QWEST ASKED NORTH COUNTY HOW**
4 **NORTH COUNTY EXCLUDES NON-LOCAL TRAFFIC IN THE RECIPROCAL**
5 **COMPENSATION BILLS IT SENDS TO AT&T AND VERIZON. HOW DID**
6 **NORTH COUNTY RESPOND?**

7 A. North County stated that AT&T and Verizon send North County reports that
8 deduct non-local minutes.⁸

9 **Q. ISN'T THE PROCESS THAT NORTH COUNTY HAS IN PLACE WITH AT&T**
10 **AND VERIZON THE SAME AS THE PROCESS IN QWEST'S PROPOSED**
11 **ICA?**

12 A. Yes. Through section 7.8 of the proposed agreement, Qwest agrees to send a
13 report to North County each month containing the non-local minutes that are to
14 be excluded from North County's reciprocal compensation bills to Qwest. Qwest
15 obtains the necessary information to send North County by manually collecting it
16 from SS7 generated data from other sources at Qwest and tandem recordings.

17 **Q. DOES ANY OTHER CLEC IN ARIZONA, OR ANY OF THE 14 STATES**
18 **WHERE QWEST IS THE ILEC, INTERCONNECT WITH QWEST USING**
19 **EXCLUSIVELY MF SIGNALING?**

20 A. No. North County is unique. Qwest has crafted language that allows North
21 County to continue to do business with Qwest as it has for the past 13 years,
22 allowing North County to continue to use technology that no other CLEC
23 exclusively uses to interconnect with Qwest. However, Qwest has included

⁸ The entire question and response state: "REQUEST 2: Please describe how NCC excludes any minutes associated with non-local traffic in the reciprocal compensation bills it sends to AT&T and Verizon. RESPONSE: AT&T sends NCC a report that excludes the non-local minutes. NCC uses that to generate the bills. Verizon provides NCC with a report and deducts the non-local minutes."

1 terms and conditions that attempt to avoid the billing disputes with North County
2 invoices.

3 **Q. DOES QWEST HAVE A BASIS FOR WHAT MR. LESSER REFERS TO AS**
4 **THE “ARBITRARY BILLING CAP”?**⁹

5 A. Yes. To the extent that Mr. Lesser’s reference to a “billing cap” relates to the cap
6 on average minutes of use per DS1 that is included in Section 7.8.1.2 of the
7 proposed ICA, Qwest bases the proposed cap on North County’s historical traffic
8 with Qwest as well as on traffic from other CLECs in Arizona. This 400,000 cap
9 on average minutes is intended to protect Qwest from arbitrage, especially from
10 any companies that choose to opt-in to the proposed agreement.¹⁰

11 **Q. HOW DOES THIS CAP PROTECT QWEST FROM ARBITRAGE? AND WHAT**
12 **ARE QWEST’S CONCERNS ABOUT OPT-INS?**

13 A. The cap operates to limit Qwest’s obligation to compensate North County. This
14 is important because if North County wishes to use MF signaling it can receive all
15 types of traffic over the MF trunks, and Qwest has no reasonable ability to
16 determine if all of those minutes are properly compensable to North County.
17 Thus, the cap acts as an upper limit. It is based on reasonable traffic patterns,
18 and Qwest would be willing to negotiate to amend that number if North County
19 can demonstrate that it is receiving more minutes over the trunks that are truly
20 local and compensable.

21 The opt-in issue is also a concern, because once the new ICA is approved, any
22 CLEC could adopt it. Without knowing the new CLEC’s usage patterns, Qwest
23 could be vulnerable to unauditable billings from a CLEC – the cap helps protect
24 against that issue.

⁹ Lesser Direct at page 15.

¹⁰ In several places, Mr. Lesser states that the cap is 10,000. (See Mr. Lesser’s direct at pages 12, 15 and 24). Mr. Lesser is incorrect. To be clear, Qwest’s proposed cap on average minutes is 400,000.

1 **Q. MR. LESSER SUGGESTS THAT THE CAP OPERATES TO BLOCK**
2 **TRAFFIC.¹¹ DOES THE CAP ACT TO BLOCK TRAFFIC?**

3 A. No, not at all. As stated before, the cap puts a limit on compensable traffic. No
4 traffic will be blocked by Qwest.

5 **Q. MR. LESSER SUGGESTS THAT QWEST IS TRYING TO FORCE NORTH**
6 **COUNTY TO CONVERT TO SS7 AND THAT QWEST IS TRYING TO**
7 **CHOOSE THE STANDARD FOR INTERCONNECTION.¹² IS THAT AN**
8 **ACCURATE REPRESENTATION OF QWEST'S INTENT WITH REGARD TO**
9 **THE PROPOSED INTERCONNECTION AGREEMENT?**

10 A. No. While it would be to Qwest's advantage for North County to convert to SS7,
11 it is Qwest's intent to allow North County to continue using MF signaling, as it has
12 for the last 13 years. At the same time, it is Qwest's intent to update the contract
13 to make the terms consistent with Qwest's current practices and procedures and
14 to make the contract consistent with changes in law. Finally, it is Qwest's intent
15 to include terms in the contract that provide greater protections to Qwest to
16 ensure accurate billing as a result of North County's use of MF, and thus reduce
17 the number of billing disputes that Qwest has had with North County's bills.

18 **Q. IF THE CURRENT EXPIRED AGREEMENT WERE TO BE RETAINED,**
19 **WOULD NORTH COUNTY BE FREE FROM ANY OBLIGATION TO CONVERT**
20 **TO SS7?**

21 A. Ironically, no. The current agreement contains the following language:

¹¹ Lesser Direct at page 15.

¹² Lesser Direct at page 11.

1 XXXIII. IMPLEMENTATION SCHEDULE

2 Within 6 months from the date of final approval of this Agreement, the
3 Parties agree to make a good faith effort to complete each of the following
4 interconnection arrangements:

- 5 a) Two-way trunk groups, as listed in Section VI, Paragraph G(2)
6 herein, necessary for the mutual exchange of traffic.
- 7 b) E-911 Trunking and database access;
- 8 c) SS7 Interconnection and Certification;
- 9 d) Directory Listings Arrangements and Directory Assistance
10 Interconnection;
- 11 e) Access to Unbundled Loops in at least one wire center;
- 12 f) Completion of Physical Collocation arrangements in at least one
13 USWC wire center.
- 14 g) Completion of inter-carrier billing arrangements necessary for the
15 joint provision of switched access services and for reciprocal traffic
16 exchange.

17 The Parties have agreed to commence discussion of these and other
18 implementation issues by November 1, 1996 to facilitate the above
19 implementation schedule.

20 It is clear from the above language that even the original agreement anticipated
21 SS7 interconnection

1 **Q. MR. LESSER CLAIMS THAT QWEST REFUSED TO DISCUSS THE**
2 **MATERIAL CHANGES CONTAINED IN THE NEW ICA.¹³ IS HIS**
3 **STATEMENT ACCURATE?**

4 A. No. Mr. Lesser does not accurately describe the discussions between Qwest
5 and North County regarding the material impacts of the new ICA. Qwest made a
6 good faith effort to work with North County to identify material changes. For
7 example, Qwest's negotiators discussed the recurring and non-recurring charges
8 associated with LIS facilities and pointed to Exhibit A for these charges. As well,
9 Qwest discussed the calculation of the RUF contained in Exhibit H. Qwest also
10 pointed out the change in the reciprocal compensation rate in Arizona as a result
11 of the Arizona Cost Docket. Qwest did repeatedly inform North County that it
12 was their responsibility to review the agreements to determine the material and
13 financial impacts to North County, as Qwest does not know North County's
14 business and is not in a position to perform such an analysis on North County's
15 behalf. However, in no case did Qwest avoid discussing and explaining any
16 terms and conditions of the agreement which North County might have questions
17 about.

18 **Q. DOES QWEST'S PROPOSED CONTRACT LANGUAGE ACCOMMODATE**
19 **NORTH COUNTY'S DESIRE TO USE MF SIGNALING?**

20 A. Yes. In addition, Qwest's language places obligations upon North County to
21 remove certain types of traffic from North County's bills to Qwest. Qwest will be
22 providing North County summary minutes-of-use information that North County
23 will need in order to determine how much to bill Qwest each month. All of those
24 summary minutes are associated with traffic for which Qwest is not required to
25 pay reciprocal compensation to North County, such as VNXX, which will be
26 discussed below.

¹³ Lesser Direct at page 19.

1 **Q. DID MR. LESSER PROVIDE ANY ALTERNATIVE LANGUAGE FOR MF**
2 **SIGNALING?**

3 A. No.

4 **Q. GIVEN THAT NORTH COUNTY WISHES TO CONTINUE ITS USE OF MF**
5 **SIGNALING, AND QWEST'S PROPOSED LANGUAGE PERMITS THE USE**
6 **OF MF SIGNALING, IS THERE ANYTHING IN DISPUTE REGARDING**
7 **QWEST'S PROPOSED LANGUAGE?**

8 A. No, other than the cap on minutes of use. Because Qwest's proposed language
9 permits North County to use MF signaling, and with provisions protecting Qwest
10 given the limitations on Qwest's inability to track the volume and jurisdiction of
11 the traffic passed between North County and Qwest using MF signaling, this
12 Commission should approve Qwest's proposed language for sections 7.1.1,
13 7.2.1.1, 7.8, 7.8.1, 7.8.1.1, 7.8.1.2 and 7.8.1.3 (with subparts a through f), to
14 allow MF signaling, and facilitate accurate billing when MF signaling is used.

15 **Q. MR. LESSER CLAIMS THAT QWEST'S PROPOSED ICA IS PREJUDICIAL**
16 **AND INCONSISTENT WITH PUBLIC POLICY?¹⁴ DOES MR. LESSER**
17 **PROVIDE ANY VALID BASIS FOR THESE ASSERTIONS?**

18 A. No. Mr. Lesser claims that he is prejudiced by Qwest's imposition of SS7
19 technology when in fact Qwest is bending over backwards to ensure that North
20 County can use MF signaling, and can continue to do business with Qwest using
21 the same technology for the same purpose as it has for the last 13 years. Mr.
22 Lesser claims prejudice with regard to VNXX and the RUF, which will be
23 discussed below, when in fact Qwest is providing the same terms to North
24 County that it offers to all other CLECs. If anything, Qwest is at a disadvantage
25 as a result of the proposed contract because Qwest makes a commitment to
26 manually collect traffic data to send to North County, to facilitate North County's

¹⁴ Lesser Direct at page 23.

1 ability to produce accurate bills to Qwest, without any additional compensation to
2 cover the extra costs that Qwest will incur for labor.

3 **IV. RELATIVE USE FACTOR ("RUF")**

4 **Q. MR. LESSER CLAIMS THAT QWEST'S RUF FORMULA DOES NOT**
5 **REFLECT ACTUAL RELATIVE USE.¹⁵ PLEASE RESPOND.**

6 A. Contrary to Mr. Lesser's assertion, the RUF formula is entirely based on actual
7 use. At the crux of the formula as contained in Exhibit H of the proposed ICA is
8 the attribution of all call minutes to the appropriate party for purposes of payment
9 for use of the LIS facility. The formula then calculates relative use based on that
10 allocation of minutes, and the actual minutes of use.

11 **Q. MR. LESSER CLAIMS THAT ISP-BOUND TRAFFIC SHOULD NOT BE**
12 **ATTRIBUTED TO THE TERMINATING CARRIER IN THE CALCULATION OF**
13 **THE RUF. HAS THIS COMMISSION RULED ON THIS ISSUE?**

14 A. Yes. As I noted in my direct testimony, this Commission made a ruling that
15 related to both VNXX and ISP-bound traffic in Qwest's arbitration with Level 3.
16 This Commission determined that such traffic should be routed over direct end
17 office trunks.¹⁶ The calculation of the RUF pertains to Local Interconnection
18 Service ("LIS") trunks. Therefore, the language in Qwest's Exhibit H attributing to
19 the CLEC all ISP-bound traffic that Qwest sends to the CLEC, for purposes of
20 calculating the RUF, is appropriate per the findings of this Commission. This
21 formula has been used in interconnection agreements for a number of years and
22 has been consistently approved by the Commission.

¹⁵ Lesser Direct at page 17.

¹⁶ See *In the Matter of the Petition of Level 3 Communications LLC for Arbitration of an Interconnection Agreement with Qwest Corporation pursuant to Section 252(b) of the Telecommunications Act of 1996*, Docket No. T-03654A-05-0350, T-01051B-05-0350, Decision Nos. 68817, and 69176, June 29 and December 5, 2006, at pages 57, and 5-6.

1 **Q. MR. LESSER CLAIMS THAT SINCE 100% OF TRAFFIC ORIGINATES WITH**
2 **QWEST IT IS NOT APPROPRIATE TO EXCLUDE ISP-BOUND TRAFFIC**
3 **FROM THE RUF CALCULATION.¹⁷ IS THAT LOGICAL?**

4 A. No. That assumes that all traffic that terminates to North County should be billed
5 to Qwest, and as has already been shown, this Commission does not agree with
6 regard to VNXX and ISP-bound traffic. Further, the assumption that all traffic
7 terminating to NCC should necessarily be assigned to Qwest in the RUF
8 calculation is invalid. For example, interexchange carrier traffic should not be
9 assigned to Qwest in the RUF calculation unless necessary changes are filed in
10 NECA Tariff No.4.

11 **Q. MR. LESSER ALSO CLAIMS THAT NORTH COUNTY HAS NO ISP-BOUND**
12 **TRAFFIC IN ARIZONA. DOES IT FOLLOW THAT THE AGREEMENT**
13 **SHOULD BE SILENT WITH REGARD TO ISP-BOUND TRAFFIC?**

14 A. No. Notably, Mr. Lesser does not assert that North County will have no ISP-
15 bound traffic in the future. So to ensure certainty in the terms of the contract for
16 all current and future traffic, the treatment of ISP-bound traffic should be made
17 clear. Again, one of Qwest's primary purposes in establishing this new contract
18 is to avoid billing disputes.

19 **Q. DID MR. LESSER PRESENT ANY SUGGESTED LANGUAGE REGARDING**
20 **THE RUF?**

21 A. No. Because Mr. Lesser did not provide any suggested alternative language,
22 Qwest can only assume that the language in sections 7.3.1.1.3.1 and 7.3.2.2.1
23 and Exhibit H pertaining to the RUF is not at issue.

¹⁷ Lesser Direct at page 17.

1 **Q. WHAT SHOULD THE COMMISSION CONCLUDE REGARDING LANGUAGE**
2 **PERTAINING TO THE RUF?**

3 A. The Commission should approve Qwest's language for sections 7.3.1.1.3.1 and
4 7.3.2.2.1 and Exhibit H pertaining to the RUF.

5 **V. VNXX**

6 **Q. SINCE MR. LESSER AGREES THAT THE DEFINITION OF VNXX SHOULD**
7 **MIRROR THAT OF THIS COMMISSION, IS THERE STILL AN ISSUE WITH**
8 **REGARD TO VNXX?**

9 A. No. Qwest's definition of VNXX as listed in Section IV of the proposed ICA is
10 consistent with this Commission's definition of VNXX, based on the Level 3
11 Order.

12 **Q. DID MR. LESSER PROPOSE ANY ALTERNATIVE LANGUAGE PERTAINING**
13 **TO VNXX?**

14 A. No. Because Mr. Lesser did not provide any suggested alternative language,
15 therefore Qwest's proposed language in sections 7.3.1.1.3.1, 7.3.2.2.1, 7.8 and
16 Exhibit H should be adopted in order to properly address VNXX.

17 **Q. WHAT SHOULD THE COMMISSION CONCLUDE REGARDING LANGUAGE**
18 **PERTAINING TO VNXX?**

19 A. The Commission should approve Qwest's language for sections 7.3.1.1.3.1,
20 7.3.2.2.1, 7.3.4.5, 7.8 and its subparts, and Exhibit H pertaining to VNXX.

1 **VI. MULTIPLEXING CHARGES**

2 **Q. MR. LESSER CLAIMS THAT QWEST SHOULD BE RESPONSIBLE FOR ITS**
3 **OWN MUX COSTS ASSOCIATED WITH THE PROVISIONING OF LIS**
4 **FACILITIES.¹⁸ DOES MR. LESSER PROVIDE ANY JUSTIFICATION FOR**
5 **THIS PROPOSITION?**

6 **A.** No. And this notion is not logical. There would be no connection between Qwest
7 and North County were it not for North County's requests to Qwest to establish
8 LIS trunks with Qwest.

9 **Q. SHOULD THIS COMMISSION REQUIRE NORTH COUNTY TO COMPENSATE**
10 **QWEST FOR THE COST OF MUX EQUIPMENT THAT QWEST INSTALLS AT**
11 **NORTH COUNTY'S REQUEST?**

12 **A.** Yes. This is consistent with the existing agreement and with every other ICA in
13 Arizona. Qwest's ability to charge CLECs TELRIC rates for MUX equipment has
14 been established in the cost docket,¹⁹ and rates have been set by the
15 Commission. Every CLEC that requests MUX equipment pays these rates.

16 **VII. TRUNK NON-RECURRING CHARGES**

17 **Q. DID MR. LESSER DISCUSS TRUNK NON-RECURRING CHARGES IN HIS**
18 **DIRECT TESTIMONY?**

19 **A.** Not directly, no. One could assume that his statement regarding MUX and
20 installation charges was intended to include trunk non-recurring charges. Again,
21 it is ludicrous that North County would not be responsible to compensate Qwest
22 for its cost of installing facilities and equipment that North County has requested
23 from Qwest. No other CLEC is allowed to request the installation of facilities and

¹⁸ Lesser Direct at page 22.

¹⁹ See Section 7.4 of Exhibit A of the current Qwest SGAT, as approved in Cost Docket T-00000A-00-0194 Phase II Order No. 64922 Effective 6/12/02.

1 equipment from Qwest and then not pay for the cost of that installation. All other
2 CLECs pay TELRIC based non-recurring charges for the installation of
3 equipment they request from Qwest. North County should not be treated any
4 differently.

5 **VIII. THIRD PARTY TRANSIT PROVIDERS**

6 **Q. MR. LESSER DECLARES THAT IF NORTH COUNTY IS REQUIRED TO USE**
7 **SS7 THEN QWEST SHOULD BE REQUIRED TO GO THROUGH A THIRD**
8 **PARTY TANDEM PROVIDER.²⁰ PLEASE RESPOND.**

9 **A.** First, Mr. Lesser ignores the fact that Qwest is not requiring North County to use
10 SS7 signaling unless North County wishes to start originating traffic. Second, as
11 I stated in my direct testimony, Qwest does not consider the issue of third party
12 transit providers ripe for this arbitration, as it was not raised during negotiations,
13 nor does the issue appear on the Joint Disputed Issues list. And as I stated in
14 my direct, Qwest is willing to negotiate an amendment to this ICA that will provide
15 terms and conditions that will allow for the use of a third party transit provider, if
16 requested. This Commission should allow the parties to negotiate such an
17 amendment before ruling on this issue.

18 **IX. CNAM AND OTHER ISSUES**

19 **Q. WAS CNAM MENTIONED IN THE JOINT DISPUTED ISSUES LIST?**

20 **A.** No.

²⁰ Lesser Direct at page 22.

1 **Q. WAS CNAM EVER AN ISSUE DISCUSSED DURING THE ICA**
2 **NEGOTIATIONS?**

3 A. No. As this issue is newly raised in Mr. Lesser's testimony, Qwest does not
4 believe that this issue should be considered by this Commission. Should this
5 Commission decide to consider this issue, Mr. Linse will discuss CNAM in
6 greater detail in his responsive testimony.

7 **Q. WERE CHARGES FOR WIRELESS AND ACCESS TRANSIT RECORDS**
8 **MENTIONED IN THE DISPUTED ISSUES LIST?**

9 A. No.

10 **Q. WERE CHARGES FOR WIRELESS AND ACCESS TRANSIT RECORDS**
11 **DISCUSSED DURING THE ICA NEGOTIATIONS?**

12 A. No. As this issue is newly raised in Mr. Lesser's testimony, Qwest does not
13 believe that this issue should be considered by this Commission. Should this
14 Commission decide to consider this issue, it should be noted that transit records
15 are provided by Qwest as a service to its customers. CLECs are not required to
16 obtain these records from Qwest. All CLECs who choose to purchase these
17 records pay for this service. Mr. Lesser has not provided any evidence to
18 explain why North County should be treated differently from all other CLECs.

19 **Q. WERE CHARGES FOR WHAT MR. LESSER REFERS TO AS SS7 LINKS**
20 **MENTIONED ON THE DISPUTED ISSUES LIST?**

21 A. No.

22 **Q. WERE CHARGES FOR SS7 LINKS DISCUSSED DURING THE ICA**
23 **NEGOTIATIONS?**

24 A. No. As this issue is newly raised in Mr. Lesser's testimony, Qwest does not
25 believe that this issue should be considered by this Commission. Should this
26 Commission decide to consider the issue, I will state once again that Qwest is

1 not forcing North County to convert from MF to SS7, if North County is not going
2 to originate traffic. If North County does convert to SS7 then the products
3 associated with SS7 are purchased through Qwest's FCC Tariff #1, Section 20
4 and AZ Access Service Price Cap Tariff, Section 15. All parties who purchase
5 SS7 products, including links, pay the rates included in these tariffs, which have
6 been approved by the FCC and this Commission. Mr. Lesser is asking that his
7 ICA include an exemption from tariffed access charges that all other customers
8 pay. This Commission should not permit such an exemption to be placed in this
9 ICA.

10 **X. CONCLUSION**

11 **Q. MR. LESSER CLAIMS THAT THE CURRENT ICA HAS PASSED THE TEST**
12 **OF TIME.²¹ IS THAT TRUE?**

13 A. No, not at all. The various billing disputes that Qwest has had with North County
14 alone are evidence that the current agreement is dysfunctional. Based on the
15 billing disputes and the outdated language in the current agreement, the
16 Commission should and already has agreed with Qwest that the current, expired
17 agreement needs to be replaced.

18 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

19 A. My testimony demonstrates that with the exception of North County's desire to
20 retain its old ICA, there are really no issues in dispute with regard to the contract
21 language proposed by Qwest. North County wishes to continue using MF
22 signaling, and the language proposed by Qwest permits North County to do so,
23 while providing Qwest with the information necessary to ensure accurate billing.
24 In addition, North County has never provided any alternative language to that

²¹ Lesser Direct at page 19.

1 proposed by Qwest during negotiations. The Commission should approve
2 Qwest's proposed ICA language.

3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 **A. Yes.**

[Service Date October 15, 2010]

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition for)	DOCKET UT-093035
Arbitration of an Interconnection)	
Agreement Between)	
)	ORDER 10
NORTH COUNTY)	
COMMUNICATIONS)	
CORPORATION OF WASHINGTON)	ARBITRATOR'S REPORT
)	AND DECISION
and)	
)	
QWEST CORPORATION)	
)	
Pursuant to 47 U.S.C. Section 252(b).)	
.....)	

1 **SYNOPSIS.** *In this Order, the Arbitrator concludes that Qwest may reasonably limit North County to one-way terminating-only traffic if North County continues to rely on multi-frequency (MF) switching technology that cannot provide Qwest with adequate bill reliability and verification information. The Arbitrator further concludes that the Relative Use Factor (RUF) language contained in the existing Interconnection Agreement is legally sufficient and need not be modified at this time. In sum, the Arbitrator adopts the majority of Qwest's proposed language to update the existing Interconnection Agreement between the parties.*

I. INTRODUCTION

2 **NATURE OF PROCEEDING.** On August 3, 2009, Qwest Corporation (Qwest) filed with the Washington Utilities and Transportation Commission (Commission) a request for arbitration pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996) (Act). The petition was served on North County Communications Corporation of Washington (North County).

3 **APPEARANCES.** Lisa A. Anderl, Associate General Counsel, Seattle, Washington, represents Qwest. Anthony McNamer, McNamer and Company, Portland, Oregon, and Joseph G. Dicks, Dicks & Workman, San Diego, California, represent North County.

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4 **ISSUES PRESENTED.** Qwest wishes to negotiate a successor interconnection agreement (ICA) with North County that would update and replace the currently effective ICA that has been in place since August 27, 1997. Qwest proposes new language to Sections 7.1.1, 7.2.1, and a new Section 7.8 (*see* Appendix A). North County contested the Commission's authority to arbitrate this dispute but the Commission rejected these arguments. *Order 06 and Order 09*. The issues presented for resolution during the course of this arbitration are as follows:

If North County continues to make use of multi-frequency (MF) signaling and does not choose to switch to SS7 signaling, should Qwest be permitted to limit network traffic to a one-way arrangement?

During the course of negotiations, North County also raised this issue:

Should the Relative Use Factor (RUF) language in the ICA be modified to reflect North County's assertion that Qwest currently originates 100 percent of actual network traffic?

5 Qwest presented proposed language in support of its petition to modify the existing ICA. North County did not present any proposed language in support of its position.

6 In this order, the Arbitrator resolves both issues in favor of Qwest, allowing Qwest to formally limit network traffic to a one-way arrangement until and unless North County adopts a more robust signaling technology and also declining to alter the existing RUF language in the ICA as suggested by North County.

7 **PROCEDURAL HISTORY.** The Commission held initial prehearing conferences in this docket at Olympia, Washington, on August 31, 2009, and October 20, 2009, before Administrative Law Judge (ALJ) Ann E. Rendahl. At that time, the parties continued to pursue settlement negotiations and requested additional time to reach agreement. *Order 02 and Order 03*. At a November 20, 2009, Status Conference, the parties reported their intent to finalize and file a negotiated ICA by December 15, 2009. *Order 04*. The parties continued their negotiations into February 2010.

8 On February 23, 2010, the Commission set a prehearing conference for March 9, 2010, and reassigned this docket to ALJ Adam E. Torem. At that conference,

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rescheduled and held at the parties' request on March 8, 2010, Judge Torem adopted a procedural schedule and set the matter for hearing. *Order 05*.

- 9 In accordance with the procedural schedule, North County filed a Motion to Dismiss the docket for lack of subject matter jurisdiction. Judge Torem ultimately denied North County's motion and required North County to file its Answer to Qwest's petition. *Order 06* and *Order 07*.
- 10 The Commission held a hearing in this docket at Olympia, Washington, on July 13, 2010, before ALJ Torem. Each party presented witnesses for cross-examination: Renee Albersheim and Philip Linse testified for Qwest; Todd Lesser testified for North County.
- 11 The parties filed simultaneous post-hearing briefs on August 10, 2010. The parties agreed to extend the original deadline for the Arbitrator's Report and Decision to September 3, 2010. *Order 05*, ¶¶ 8-9. In order to allow the Commission to complete its administrative review of *Order 05* regarding jurisdiction over this matter, the parties subsequently agreed to a further extension of this date to October 15, 2010.

II. MEMORANDUM

- 12 Qwest is an Incumbent Local Exchange Carrier (ILEC) and North County is a Competitive Local Exchange Carrier (CLEC). Qwest and North County currently rely on an ICA originally entered in August 1997. Qwest believes that the passing of more than a decade merits renegotiation of the ICA to better reflect current company products, processes, and improvements in signaling technology.¹

A. Telecommunications Network Signaling Technology

- 13 Network signaling is the network control information sent between network elements, such as between two switches, between a switch and a database, or between a service provider's network and an end user's network.² In the Public Switched Telephone

¹ Petition for Arbitration, ¶¶ 10-12.

² Linse, Exh. PL-1T, at 3:12-20.

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Network, the most common signaling technologies in use are known as Signaling System No. 7 (SS7) and Multi Frequency (MF).³

- 14 MF signaling makes use of audible analog codes to manage connections between telecommunications switches through use of “in-band” signaling.⁴ SS7 signaling relies on digital code through “out-of-band” signaling, also known as “common channel signaling.”⁵

B. Relative Use Factor

- 15 The term “relative use factor” (RUF) refers to the proportional use of network connections by each carrier connected to a telecommunications network. In the context of an ICA, the RUF allows each carrier to review traffic data and adjust intercarrier billing and compensation in accordance with its proportional use of network resources.⁶
- 16 The existing ICA between Qwest and North County establishes a methodology for calculating the RUF in Section 7.3.1 and references Exhibit H to the ICA.⁷

C. Synopsis of Party Positions

- 17 Qwest believes that SS7 is more efficient than MF signaling and superior to MF for purposes of analyzing call data.⁸ Qwest asserts that no other competitive local exchange carrier (CLEC) in Washington interconnects with Qwest using only MF

³ *Id.*, at 4:1-6.

⁴ *Id.*, at 4:14 – 5:2; *see also* Exh. PL-2 (diagram B).

⁵ *Id.*, at 4:7-13; *see also* Exh. PL-2 (diagram A).

⁶ Albersheim, Exh. RA-1T, at 18:6-8.

⁷ *See also* Exh. RA-8.

⁸ Linse, Exh. PL-1T, at 5:9 – 7:13 and 8:10 – 10:6; *see also* Albersheim, Exh. RA-1T at 8:11 – 9:2 and Qwest Post-Hearing Brief at 6, ¶ 15.

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signaling.⁹ Further, Qwest argues that the existing ICA actually obligates North County to transition from MF to SS7 signaling.¹⁰

- 18 North County disagrees about the superiority of SS7 technology, asserting that MF signaling provides Qwest sufficient information to accurately track and bill calls made on North County's network connections with Qwest's system.¹¹ North County argues that it is a small company and based only on Qwest's preferences cannot afford to switch from MF to SS7 technology.¹²
- 19 Qwest responds that MF technology limits its ability to track and bill for calls made over its network unless those calls are segregated to MF trunk lines.¹³ Qwest is not currently aware of North County routing network traffic to Qwest's end users, but Qwest believes that MF signaling could be used to mask any local calls originated by North County and routed to Qwest through another service provider.¹⁴
- 20 Qwest proposes to modify the existing ICA so as to allow North County to retain its MF signaling technology, but only upon formal recognition that network traffic is now in a one-way pattern from Qwest to North County. Qwest's proposed language would further specify that North County is not permitted to send traffic to Qwest's network on its own or through a third party.¹⁵ Finally, Qwest proposes to cap the total number of minutes of use per in-service DS1 line each month.¹⁶

⁹ Qwest Post-Hearing Brief, at 2, ¶ 4, n. 1.

¹⁰ *Id.*, at 7, ¶ 17, n. 19, citing to current ICA, Exhibit B-1, Section XXXIII.

¹¹ Lesser, Exh. TL-2T, at 3-6, 9, and at 18.

¹² *Id.*, at 6-7; *see also* North County Post-Hearing Brief, at 2.

¹³ Qwest Post-Hearing Brief, at 6, ¶ 16, n. 18; *see also* Albersheim, Exh. RA-7RT, at 2:16 – 3:4.

¹⁴ Linse, Exh. PL-3T, at 3:15 – 4:15.

¹⁵ Qwest Post-Hearing Brief, at 7-8, ¶¶ 17-21.

¹⁶ Qwest's proposed new language regarding this monthly cap is found in ¶ 7.8.1.2. In its initial filing, Qwest's language indicated a cap of 10,000 minutes per month. Prior to hearing, Qwest noted an error in its formula for calculating this figure and upwardly modified the proposed cap number to 240,000 minutes per month. *See* Albersheim, Exh. RA-1T, at 17:11-17.

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21 With regard to calculation of the relative use factor (RUF), Qwest contends that the language contained in the ICA is sufficient.¹⁷ North County did not submit any proposed language for altering the existing RUF arrangement in the ICA.

D. Arbitrator's Decision

22 In the modern telecommunications marketplace, local exchange competition has supplanted a single supplier environment for dial tone services. As competing carriers more frequently rely on usage-based mechanisms for termination of traffic, it is essential that carriers be able to confidently track and verify the source and other relevant call information needed to properly apply intercarrier compensation rates.

23 Despite the current industry's general migration to SS7 technology, the Commission need not resolve the dispute between the parties regarding the relative merits of MF and SS7 signaling technologies. Instead, we focus on each carrier's right to accurate and verifiable billing data for purposes of achieving proper and reliable intercarrier compensation. As explained below, the record generally supports Qwest's proposed language in Section 7 of a new ICA between the parties, with minor exceptions.

24 Qwest agrees that North County can continue to rely on MF technology, but only if traffic retains the one-way character essentially reflecting the current status quo between these parties. In order to alter that one-way arrangement, Qwest's proposed language would require North County to negotiate an amendment to the ICA specifying use of SS7 technology before it could begin originating traffic to send to Qwest for termination or passing to other telecommunications carriers. We find this preordained limitation troubling and refuse to adopt language that might hinder the parties in their future negotiations.

25 We are willing to adopt the bulk of Qwest's proposed language for paragraph 7.1.1. to the ICA, but only after striking the clause mandating future use of SS7 signaling.¹⁸

¹⁷ Albersheim, Exh. RA-7RT, at 7:5-14 and 8:1-4; *see also* Qwest Post-Hearing Brief at ¶¶ 29-30.

¹⁸ As relevant here, we modify Qwest's proposed language as follows: The Parties agree that, should CLEC subsequently wish to originate traffic to send to Qwest for termination or passing of traffic to other Telecommunications Carriers, the Parties will mutually negotiate an amendment to

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This modification to Qwest's proposed language maintains our focus on promoting accurate, supportable, and confirmable billing data for purposes of achieving proper and reliable intercarrier compensation and also avoids undue interference with private party negotiations.

26 The existing ICA does not permit North County to send traffic to Qwest through a third party.¹⁹ However, at hearing, Mr. Lesser conceded that North County has used other carriers to route calls to Qwest.²⁰ Mr. Lesser explained that he reads the ICA to allow North County to route another carrier's traffic to Qwest if that other carrier has an ICA with Qwest that permits for reciprocal compensation.²¹ We find North County's reading of the ICA as untenable. North County must cease and desist its practice, however limited, of routing third party calls to Qwest until it can negotiate a proper arrangement for this practice. Qwest's proposed language to reiterate and confirm the one-way nature of network traffic from Qwest to North County is entirely justified.

27 We also conclude that Qwest's proposed compensation cap of 240,000 monthly minutes over DS1 lines appears reasonable based on historical usage data between North County and Qwest.²² Although we adopt Qwest's proposed language containing the cap at this level, we note Ms. Albersheim's testimony during the hearing that this limitation was subject to further negotiation if justified by increasing monthly traffic volumes.²³ North County certainly retains the right to seek an appropriate amendment to this cap if call volumes increase such that Qwest denies North County compensation for actual traffic exchanged. Further, Qwest is to clarify

~~this Agreement which will also include requirements for use of SS7 signaling in the mutual exchange of traffic.~~

¹⁹ Exh. B-1, Section V.A.

²⁰ TR. 249:7 – 251:11.

²¹ *Id.*, at 254:1-19; *see also* Qwest Post-Hearing Brief at ¶ 11.

²² *See* Exh. TL-8X, at data request NCC-1 querying "Explain the reasoning behind the proposed cap of 10,000 minutes per month for billable MF traffic?" and Qwest's response to this DR.

²³ TR. at 166:3-12; *see also* Qwest Post-Hearing Brief at 8, ¶ 21 and at 9, ¶ 23.

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its proposed language for the new ICA at paragraph 7.8.1.2 to indicate that the cap will be applied on an average basis across all DS1 lines interconnected and in use between North County and Qwest.²⁴

- 28 Finally, we note that the RUF was not originally in dispute when Qwest filed its petition for arbitration and North County did not provide sufficient testimony to create a record upon which the Commission could fully analyze this issue. North County did not submit proposed modifications to the ICA's existing language regarding RUF. In its post-hearing brief, North County recommends as follows:

The factor should be based on reality, and should operate to determine relative use, as its name suggests, this includes proper allocations of thing (sic) such as MUX fees.²⁵

North County did not satisfactorily explain how deletion of VNXX traffic from the RUF calculation would comply with prior Commission orders regarding VNXX billing criteria. Therefore, we decline to craft new language regarding calculation of the relative use factor for the successor ICA.

III. CONCLUSION

- 29 Qwest seeks to limit North County to a one-way interconnection arrangement until and unless North County can update its MF technology to SS7 signaling or otherwise ensure accurate and verifiable billing data is provided to Qwest. Qwest further seeks to impose a monthly cap on the number of minutes used for calculating billable minutes.²⁶ Finally, Qwest seeks to continue to exclude VNXX traffic from North County's bills to Qwest, particularly when calculating the Relative Use Factor (RUF), as is its practice with nearly six dozen other CLECs.

- 30 We find that all of Qwest's arguments to support its positions are reasonable and supported by evidence in the record, and we adopt the majority of Qwest's recommendations. We do not, however, endorse language that forces these parties to

²⁴ See Qwest Post-Hearing Brief at 9, ¶ 23.

²⁵ North County's Post-Hearing Brief, at 3.

²⁶ The Commission understands this cap on monthly minutes to apply only to intercarrier compensation and that Qwest will not take action to block call traffic over its network.

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select in advance the appropriate signaling technology to be adopted if North County wishes to originate traffic to or through Qwest. We also require Qwest to further clarify the implementation of the monthly cap on minutes per DS1 line.

- 31 Qwest carried its burden with regard to explaining the rationale for seeking to update and modify the language in the existing interconnection agreement. Therefore, we must find for Qwest and adopt its proposed language for the interconnection agreement as set out in Appendix A, subject to the modifications noted above and the provision that the clarification noted above be made regarding the cap on monthly DS1 minutes.

FINDINGS OF FACT

- 32 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:
- 33 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies. Federal law vests the Commission with the authority to arbitrate interconnection disputes between local exchange carriers.
- 34 (2) Qwest Corporation (Qwest) and North County Communications Corporation of Washington (North County) are “public service companies” and “telecommunications companies,” as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW. Qwest and North County are engaged in the state of Washington in the business of supplying telecommunications services for hire, sale, or resale to the general public for compensation.
- 35 (3) Qwest and Embarq negotiated their original interconnection agreement in August 1997 and have not since modified that contract.

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- 36 (4) On August 3, 2009, Qwest filed a Petition for Arbitration of an Interconnection Agreement with the Commission and timely served the Petition on North County.
- 37 (5) Qwest seeks to modify the existing interconnection agreement to confirm that North County does not and will not originate or otherwise send traffic to Qwest until North County changes from its reliance on older multi-frequency signaling to newer SS7 signaling technology.
- 38 (6) Qwest also seeks to modify the existing interconnection agreement's intercarrier compensation mechanisms to improve the parties' ability to accurately measure and account for the amount of traffic exchanged.

CONCLUSIONS OF LAW

39 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 40 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *47 U.S.C. § 252(b); Title 80 RCW; and WAC 480-07-630.*
- 41 (2) North County should be required to provide Qwest with sufficient information to ensure reliability and verifiability for purposes of intercarrier compensation.
- 42 (3) Qwest Corporation's proposed language, as modified by the terms of this order, should be incorporated into the updated interconnection agreement (ICA) between these parties.
- 43 (4) The resolution of the parties' unresolved issue meets the requirements of Section 251 of the Telecommunications Act of 1996 and the regulations adopted by the Federal Communications Commission. *47 U.S.C. § 251 and Chapter 47 C.F.R., Part 51.*

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- 44 (5) The Commission should retain jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

THE COMMISSION ORDERS:

- 45 (1) The relief sought in Qwest Corporation's Petition for Arbitration of an Interconnection Agreement is granted: North County Communications Corporation of Washington may continue to use Multi Frequency signaling technology in accordance with the terms of Qwest's proposed language modifying the existing Interconnection Agreement, consistent with the terms of this order.
- 46 (2) Within thirty days after entry of this Order, the parties shall file with the Commission for approval a signed Interconnection Agreement containing Qwest Corporation's proposed language, and otherwise consistent with the terms of this Order.
- 47 (3) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective October 15, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Arbitrator / Administrative Law Judge

APPENDIX A –QWEST’S PROPOSED ICA LANGUAGE²⁷

Section 7.0 – INTERCONNECTION

7.1 Interconnection Facility Options

7.1.1 This Section describes the Interconnection of Qwest's network and CLEC's network for the purpose of exchanging Exchange Service (EAS/Local traffic), IntraLATA LEC Toll and Jointly Provided Switched Access traffic. Intercarrier traffic exchange ~~will~~ may be mutual and reciprocal and all traffic exchanged between the Parties must be provisioned pursuant to this Agreement. **The Parties understand and agree that CLEC currently sends no traffic to Qwest and instead terminates traffic either originated by Qwest or originated by other carriers and passed through Qwest to CLEC. The Parties further understand and agree that CLEC currently uses multi-frequency (“MF”) signaling in its receipt of traffic from Qwest and does not utilize SS7 signaling. The Parties agree that, should CLEC subsequently wish to originate traffic to send to Qwest for termination or passing of traffic to other Telecommunications Carriers, the Parties will mutually negotiate an amendment to this Agreement which will also include requirements for use of SS7 signaling in the mutual exchange of traffic.** A Party that has interconnected or gained access under sections 251 (a) (1), 251 (c)(2), or 251 (c)(3) of the Act, may offer information services through the same arrangement, so long as it is offering Telecommunications Services through the same arrangement(s) as well. Enhanced or information service providers (providers or “Information Services” as that term is defined in 47 U.S.C. § 153 (20)) that do not also provide domestic or international telecommunications are not Telecommunications Carriers as defined by the Act and thus may not interconnect under this Agreement. Qwest will provide Interconnection at any Technically Feasible point within its network, including but not limited to, (i) the Line Side of a local Switch (i.e., local switching); (ii) the Trunk Side of a local Switch, (iii) the trunk connection points for a Tandem Switch, (iv) Central Office Cross Connection points, (v) out-of-band Signaling Transfer Points necessary to exchange traffic at these points and access call-related databases, and (vi) points of access to Unbundled Network Elements. Section 9 of this Agreement describes Interconnection at points (i), (iv), (v), and (vi), although some aspects of these Interconnection points are described in Section 7. “Interconnection” is as described in the Act and refers, in this Section of the Agreement, to the connection between networks for the purpose of transmission and routing of Telephone Exchange Service traffic and IntraLATA LEC Toll traffic at points (ii) and (iii) described above. Interconnection, which Qwest currently names “Local

²⁷ Underscored words in boldface (e.g., **abc**) are proposed additions to existing ICA language. Strikeouts in boldface (e.g., **~~abc~~**) indicate proposed deletions from existing ICA language.

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Interconnection Service" (LIS), is provided for the purpose of connecting End Office Switches to End Office Switches or End Office Switches to local or Access Tandem Switches for the exchange of Exchange Service (EAS/Local traffic); or End Office Switches to Access Tandem Switches for the exchange of IntraLATA LEC Toll or Jointly Provided Switched Access traffic. Qwest Tandem Switch to CLEC Tandem Switch connections will be provided where Technically Feasible. New or continued Qwest local Tandem Switch to Qwest Access Tandem Switch and Qwest Access Tandem Switch to Qwest Access Tandem Switch connections are not required where Qwest can demonstrate that such connections present a risk of Switch exhaust and that Qwest does not make similar use of its network to transport the local calls of its own or any Affiliate's End User Customers.

* * * * *

7.2 Exchange of Traffic

7.2.1 Description

7.2.1.1 This Section 7.2 addresses the exchange of traffic between CLEC's network and Qwest's network. Where either Party interconnects and delivers traffic to the other from third parties, each Party shall bill such third parties the appropriate charges pursuant to its respective Tariffs or contractual offerings for such third party terminations. Unless otherwise agreed to by the Parties, via an amendment to this Agreement, the Parties will directly exchange traffic between their respective networks without the use of third party transit providers. **In addition, as discussed in Section 7.1.1 above, unless a later amendment is mutually negotiated by the Parties, CLEC will send no traffic to Qwest either for termination or for Qwest to send to other Telecommunications Carriers connected to Qwest.**

* * * * *

7.8 Billing Methodology for MF Signaled Traffic Terminated to CLEC

7.8.1 While the traffic between Qwest and CLEC is as described in Section 7.1.1 and this Agreement has not been amended otherwise, CLEC will use the following process to determine the amount of traffic originated by Qwest that CLEC is entitled to receive intercarrier compensation from Qwest for its determination.

7.8.1.1 CLEC will determine the total number of non-VNXX minutes terminating to CLEC's end office switch from Qwest each calendar month

over the LIS trunk groups interconnecting Qwest and CLEC. That information will be provided to Qwest on a per-trunk group basis.

7.8.1.2 The minutes determined in Section 7.8.1.1 will be identified as end office versus tandem minutes, e.g. minutes terminating to CLEC that were delivered to CLEC from a Qwest end office ("End Office Minutes") versus those minutes terminating to CLEC that were delivered to CLEC from a Qwest tandem ("Tandem Minutes"). Qwest will have the right, once per calendar year, to request reports of the detail and methodology discussed on this Section 7.8.1.2 in order to audit the usage underlying the billed reciprocal compensation minutes of use. At no time shall the total number of minutes of use per in-service DS1 exceed 10,000 on a calendar month basis.

7.8.1.3 In determining the number of minutes for which CLEC is entitled to receive intercarrier compensation for termination from Qwest, CLEC will subtract from the total monthly minutes of use determined in Section 7.8.1.1. the following:

CLEC will subtract from the sum of each switch's Tandem Minutes for the calendar month (subject to the limitation described in Step 7.8.1.2 above):

- (a) All wireline-originating minutes of use that transits Qwest's network and terminates to CLEC's switch during that calendar month. Qwest will provide CLEC summary level messages and minutes each month for these wireline-originating transit records.
- (b) All wireless-originating minutes of use for traffic that transits Qwest's network and terminates to CLEC's switch during that calendar month. Qwest will provide CLEC summary level messages and minutes each month for these wireless-originating transit records.
- (c) All minutes of use for Jointly Provided Switched Access ("JPSA") traffic originating from or terminating to CLEC's switch during that calendar month. Qwest will provide CLEC summary level messages and minutes each month for these JPSA records.
- (d) All Qwest-originated IntraLATA LEC Toll for which Qwest is the originating intraLATA toll provider. Qwest will provide CLEC summary level messages and minutes each month for these intraLATA toll records.
- (e) All ILEC-originating minutes of use for traffic that transits Qwest's network and terminates to CLEC's switch during that calendar month. (These minutes of use are not included in the wireline-originating minutes reflected in (a) above) Qwest will provide CLEC summary level messages and minutes each month for these ILEC-originating transit records.

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(f) For clarification, as discussed generally in Section 7 of this Agreement, Qwest has no obligation to compensate CLEC for local minutes terminating to CLEC that are originated by third party providers, IntraLATA LEC Toll minutes terminating to CLEC for which Qwest is not the originating toll provider, and JPSA Traffic.

ISSUED: January 21, 2011

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ARB 918

In the Matter of

QWEST CORPORATION

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

ARBITRATOR'S DECISION

I. INTRODUCTION

North County Communications Corporation (North County) and Qwest Corporation (Qwest) are parties to an interconnection agreement signed in 1997. In August of 2009, Qwest filed with the Public Utility Commission of Oregon (Commission) a petition for arbitration and approval of a new interconnection agreement with North County, to address changes in technology since the parties' existing agreement was signed. After several months of informal negotiations, the parties moved forward with formal arbitration, culminating in an arbitration hearing. In this ruling, I resolve the issues raised in the parties' arbitration.

II. PROCEDURAL HISTORY

Qwest is an incumbent local exchange carrier (ILEC) that provides telecommunications services in Oregon. North County is a wireline competitive local exchange carrier (CLEC). North County and Qwest are parties to an interconnection agreement (ICA) in Oregon signed on November 20, 1997, that has been in "evergreen" status since 2000.¹

Qwest filed its petition for arbitration in this docket on August 3, 2009. The parties jointly requested a series of stays to pursue informal negotiations. After Qwest requested that the Commission move forward with formal arbitration proceedings, North County asked for the opportunity to brief the threshold question of whether this Commission has jurisdiction over the parties' dispute. On May 5, 2010, I issued a ruling denying North County's motion to dismiss Qwest's petition for lack of jurisdiction, and on June 21, 2010, the Commission issued an order affirming my ruling.

¹ See North County Communications Corporation and U S West Communications, Inc. [now Qwest] Arbitrated Interconnection Agreement for the State of Oregon [Existing Agreement] at § XXXIV.V p. 73.

The parties submitted issue statements, pre-filed direct testimony, and exhibits. On July 8, 2010, the Commission conducted a hearing, at which the parties presented direct and cross-examination testimony. The parties submitted simultaneous closing briefs on September 21, 2010. Qwest filed a notice of supplemental authority on October 19, 2010. North County moved to strike Qwest's notice, and on October 29, 2010, I denied North County's motion to strike.

III. DISCUSSION

A. Legal Standard

Under the Telecommunications Act of 1996 (the Act),² either party to a negotiation regarding an interconnection agreement may petition this Commission to arbitrate any open issues. *See* 47 U.S.C. § 252(b)(1). In resolving open issues, this Commission must ensure that its resolution and any conditions that it imposes on the parties meet the requirements of sections 251 and 252 of the Act and any valid applicable Federal Communications Commission (FCC) regulations under those sections, and that any arbitration award is consistent with this Commission's policies. *See* OAR 860-016-0030(9).

B. Background

Qwest argues that since the parties signed their existing agreement in 1997, significant technological advancements and changes in Qwest's processes and products have rendered the existing agreement outdated. Primarily, Qwest argues that North County's use of multifrequency (MF) signaling is archaic, and that while Qwest is willing to accommodate MF signaling for traffic terminating to North County, North County must use Signaling System No. 7 (SS7) signaling if it wishes to begin terminating traffic with or through Qwest. Qwest offers its revised standard negotiation template as the basis for its proposed interconnection agreement in this docket, with accommodations to one section of the template to allow North County to terminate traffic using MF signaling.³ Qwest notes that the accommodations in its proposed template are intended to assist North County, and that in general, Qwest is not required to accede to every CLEC demand for what is essentially an inferior method of interconnection.⁴

North County does not offer specific language to replace the language proposed by Qwest, but argues generally that Qwest's proposed interconnection agreement would force North County to scrap its existing network in favor of an unnecessary technological update and an untested agreement. North County states that nothing in any law or regulation allows Qwest to dictate North County's technology choices, and that the difficulties Qwest cites in retaining the parties' existing agreement are either false or exaggerated. North County also states that Qwest

² Pub. L. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C. §§ 151-615.

³ Qwest Post-Hearing Brief at 4. Qwest notes that its current template is based on terms developed in a docket that extended over nearly six years, with revisions and input from the Administrative Law Judge, Commission, and CLECs. *See* UM 823.

⁴ Qwest Post-Hearing Brief at 4, citing *Western Radio v. Qwest Corp.*, 51 Comm. Reg. (P & F) 202 (Or. Dist. Ct., 2010); *Verizon Md. Inc. v. Core Communications, Inc.*, 631 F.Supp.2d 690, 700 (D. Md. 2009).

has not justified changing the terms of the parties' existing agreement, and advocates for keeping the existing agreement.⁵

C. Issues

I. Signaling

a. Parties' Positions

i. Qwest

Qwest argues that SS7 signaling is more efficient, more reliable, and more flexible than MF signaling, and that SS7 allows carriers to more accurately track traffic, and therefore more accurately bill for traffic, using the appropriate jurisdictional basis.⁶ Qwest states that MF signaling's limitations in its ability to record call information were causing numerous billing disputes between the parties.⁷ Qwest states that it is not practical or reasonable to expect Qwest to re-engineer its automated billing systems to deal with one customer's older technology, but that Qwest nevertheless agrees to manually generate data for North County in this case, with added protections to ensure that Qwest is not over-billed.⁸

To accommodate North County's desire to continue using MF signaling, in its proposed ICA Qwest offers language stating that the parties agree that: (1) North County currently terminates traffic from Qwest using multi-frequency (MF) signaling but does not send traffic to Qwest; and (2) should North County wish to originate traffic to Qwest, at that time the parties will negotiate an amendment to their ICA that will include requirements for use of SS7 signaling in the mutual exchange of traffic. Per the proposed agreement, unless a later amendment is mutually negotiated, North County may not send traffic to Qwest for termination or for Qwest to send to other carriers connected to Qwest.⁹

ii. North County

North County argues that it should not be prevented from using outbound MF signaling, and that forcing it to convert to SS7 would be prohibitively expensive and unreasonable. North County notes that it designed its entire network based on what was allowed in the existing agreement, and that MF signaling is in fact more reliable and less prone to widespread failure than SS7 signaling.¹⁰ North County specifically argues that section 7.2.1.1 of Qwest's proposed ICA arbitrarily restricts North County's ability to provide outbound services, and that nothing in the Act or any law or regulation limits North County's ability to provide service to outbound customers.¹¹

⁵ Hearing Transcript, Lesser - ReE, at 145.

⁶ Qwest Post-Hearing Brief at 6, citing Qwest Exhibit 8, Linse Direct Testimony, at 15.

⁷ Hearing Transcript, Albersheim - X, at 90; see also Qwest/11 Summary of Billing Issues.

⁸ Qwest Exhibit 10, Albersheim Rebuttal Testimony, at 7.

⁹ Qwest Revised List of Disputed Issues, June 16, 2010, at 1, Sections 7.1.1, 7.2.1.1.

¹⁰ Hearing Transcript, Lesser Direct, at 5-6.

¹¹ North County List of Disputed Issues, June 20, 2010, at 2.

North County cites to section 251(i) of the Act, stating that a local exchange carrier “shall make available any interconnection, service, or network element provided under an [approved] agreement to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement,” and cites to a ruling from the FCC noting that section 251(i) has been described as a “primary tool” for preventing discrimination against carriers under section 251.¹² North County states that other interconnection agreements exist that permit MF signaling, and while no other CLEC actually uses MF signaling, the fact that the agreements permit such use indicates that Qwest is discriminating against North County.¹³

b. *Resolution*

I adopt Qwest’s argument on this issue. Qwest presented exhibits and testimony regarding the billing and tracking difficulties posed by North County’s continued use of MF signaling. Qwest’s accommodation of MF signaling, by permitting North County to terminate calls from Qwest but requiring renegotiation should North County wish to originate calls, is a reasonable solution that permits the parties to continue interconnecting without exposing Qwest to undue risk.

Qwest’s citation to *Western Radio v. Qwest Corp.*, 51 Comm. Reg. (P & F) 202 (Or. Dist. Ct., 2010), is persuasive. As the court in *Western Radio* notes, “ILECs are required to provide interconnection to requesting carriers ‘that is at least equal in quality to that provided by the local exchange carrier itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection . . .’” *Western Radio* at 22, citing 47 U.S.C. § 251(c)(2)(C). Courts interpreting section 251(c)(2)(C) have concluded that the Act does not require an ILEC “to interconnect with requesting carriers through facilities that were of *lesser-quality* than that which it interconnected with other carriers.” *Western Radio* at 23, discussing *Verizon Md. Inc. v. Core Commc’ns, Inc.*, 631 F. Supp. 2d 690, 700 (D. Md. 2009) (emphasis added). While North County may request interconnection, it may not force Qwest to continue using MF signaling, an outdated technology, to do so.¹⁴ Qwest’s accommodation of North County’s desire to continue using MF signaling is reasonable, and fulfills Qwest’s requirements under section 251 of the Act.

I find that Qwest’s amendments to its template agreement reasonably accommodate the needs of both parties. I approve sections 7.1.1 and 7.2.1.1 of Qwest’s proposed ICA, as filed with its Petition for Arbitration.¹⁵

¹² North County Post-Hearing Brief, citing 11 F.C.C.R. 15499, 1296.

¹³ Hearing Transcript, North County Closing, at 153.

¹⁴ The court in *Western Radio* went on to note that “[r]equiring Qwest to provide interconnection through outdated technologies is contrary to the purpose of the Act because it could stifle competition, result in lower-quality services, and hinder the development of new technologies.” *Western Radio* at 25-26.

¹⁵ See Petition for Arbitration and proposed Interconnection Agreement, filed August 3, 2009.

2. *Billing Methodology*

a. *Parties' Positions*

i. *Qwest*

Qwest states that section 7.8 of its proposed agreement is intended to require North County to produce accurate bills, since Qwest is not able to verify traffic with MF signaling.¹⁶ To accommodate the use of MF signaling, Qwest proposes a cap on billable minutes. The cap, based on North County's historical traffic with an added buffer to allow for growth, is intended to protect Qwest from arbitrage, particularly from companies that choose to opt into the proposed agreement. Qwest explains that the cap is important because Qwest is blind to any North County-originated local calls that North County routes through another service provider using MF signaling; as a result, Qwest had no reasonable ability to determine if all minutes billed by North County were in fact properly compensable.¹⁷ In its closing brief, Qwest clarifies that the cap would be applied on an average basis, to avoid cutting off compensable minutes that exceeded one DS1 line's cap, when on an average basis the lines' minutes were below the cap. Qwest also notes that due to a calculation error, the cap listed in its proposed ICA as 10,000 minutes of use per in-service DS1 should have read 240,000 minutes of use per in-service DS1.

ii. *North County*

North County argues that Qwest's proposed cap unlawfully discriminates against North County by taking a deduction off of North County's invoices. North County notes that no other CLEC has a similar cap on minutes, and argues as a result that the cap is discriminatory. North County also argues that the cap is arbitrary, and that Qwest came up with the number randomly, without support or evidence. North County notes that if North County used a million minutes on one line, the proposed cap would effectively discount 76 per cent of the time that North County could bill for that line.¹⁸

b. *Resolution*

I agree with North County that Qwest's proposed cap would operate to cut off compensation if one DS1 line exceeded the cap, even if the averaged minutes for all DS1 lines were below the cap. However, with Qwest's proposed modification, that issue is removed. With modifications to Qwest's proposed language to clarify that the cap is to be applied on an averaged basis, I find that Qwest adequately demonstrated through testimony and evidence that its cap is necessary to prevent arbitrage from other CLECs and to permit North County to use MF signaling without exposing Qwest to undue risk as a result. As Qwest noted at the hearing, no other CLEC has such a cap, because no other CLEC interconnects with Qwest using MF signaling.¹⁹ I approve of Qwest's proposed language in section 7.8 of its proposed

¹⁶ Qwest Post-Hearing Brief, at 7.

¹⁷ Qwest Ex. 10, Albersheim Rebuttal Testimony, at 9; Qwest Ex. 13, Linse Rebuttal Testimony, at 10.

¹⁸ Hearing Transcript, 105, 152-153; see also North County List of Disputed Issues at 2.

¹⁹ Hearing Transcript, 96-97.

interconnection agreement, as filed with its Petition for Arbitration, with the following modifications:

- (1) Section 7.8.1.2 will strike out "10,000" and replace with "240,000";
- (2) Section 7.8.1.2 will clarify that the cap is to be applied on an averaged basis.

3. ***Relative Use Factor***

a. *Parties' Positions*

i. *Qwest*

Qwest states that Exhibit H to its proposed ICA contains the standard language for calculation of the relative use factor (RUF). Per Exhibit H, five categories of traffic are Qwest's responsibility, while seven categories of traffic are the CLEC's responsibility. Included in minutes that are the CLEC's responsibility are all ISP-bound and VNXX minutes of use (MOU) that Qwest sends to the CLEC, and all VNXX MOU that transit Qwest's network and are terminated to the CLEC. Exhibit H further states that data used for the calculation of the RUF "will be the average of the most recent three (3) months' usage determined not to be an anomaly."

In its testimony and post-hearing brief, Qwest explains that typically, the initial sharing of costs between parties is set at 50/50 for a period of three months, after which either party may seek recalculation based on the actual relative use between the parties. In this instance, Qwest proposes assigning 99 per cent of the cost to Qwest and one per cent to North County, so long as the parties file billing percentages that give Qwest 100 per cent ownership of the transport facilities.²⁰

With regard to ISP-bound traffic, Qwest notes that this Commission has determined that such traffic should not be attributed to the originating carrier when calculating the relative use factor. Therefore, Qwest argues that language in Exhibit H attributing to the CLEC all ISP-bound and VNXX traffic is appropriate.²¹

ii. *North County*

North County states that the RUF is intended to allocate the amount of traffic flowing out to each carrier, and that under both the existing and proposed agreements, 100 percent of the flow of traffic is from Qwest to North County (indeed, Qwest's proposed agreement requires renegotiation should North County wish to originate traffic). As a result, North County argues that relative use of the companies' circuits is 100 percent Qwest and 0 percent North County, and the RUF should reflect that reality.

²⁰ Qwest Post Hearing Brief at 11.

²¹ Qwest Ex. 10, Albersheim Rebuttal Testimony, at 13-14.

b. *Resolution*

Neither party submitted data regarding the parties' historical relative use, to demonstrate what the sharing of costs should be under Qwest's proposed Exhibit H. I agree with North County that Qwest has failed to justify its proposed RUF of 99 percent costs to Qwest and one percent costs to North County. However, North County has failed to contest the RUF calculation in Exhibit H, other than to state that the parties' RUF should simply reflect the actual flow of traffic between the parties. Absent evidence from either party that the distribution of costs should be something other than 99/1, this initial sharing of costs is favorable to North County. In addition, if the actual usage between the parties is determined to be 100/0, North County may seek recalculation of the sharing of costs to reflect that usage after three months.

North County has not demonstrated that Exhibit H is contrary to Commission rulings or law. I approve of Qwest's language in sections 7.3.1.1.3.1 and 7.3.2.2.1 of its proposed interconnection agreement, as filed with its Petition for Arbitration, modified to assign 1 percent of the cost to North County and 99 percent to Qwest for the initial three month period.

4. *VNXX Traffic*

a. *Parties' Positions*

i. *Qwest*

Qwest states that its proposed language on VNXX traffic properly implements this Commission's requirements regarding VNXX traffic.²²

ii. *North County*

North County states that VNXX should be defined "exactly the same way as it is defined by the Commission," and that there is no need for Qwest to supply its own definition of VNXX in the proposed agreement.²³

b. *Resolution*

North County has not presented evidence or argument that anything in Qwest's proposed language contradicts Commission rulings or law. I approve of Qwest's proposed language in Section 7.2.1.2 of its proposed interconnection agreement, as filed with its Petition for Arbitration.

²² Qwest Post Hearing Brief at 5.

²³ North County Post Hearing Brief at 7.

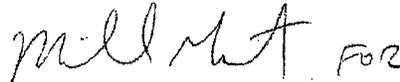
5. ***Remaining Issues: AudioText, Automatic Number Identification***

North County raised the issues of audiotext and automatic number identification during the course of this proceeding, but did not address either issue in its post-hearing brief. With regard to these remaining issues, I conclude that North County did not provide sufficient briefing and argument for me to properly consider their position. North County may file comments with the Commission that more thoroughly address their objections to Qwest's proposed language. Absent more thorough comments, I find in favor of Qwest on these issues.

IV. ARBITRATOR'S DECISION

1. The proposed interconnection agreement between Qwest Corporation and North County Communications Corporation of Oregon, filed by Qwest Corporation with its Petition for Arbitration on August 3, 2009, is approved, as modified by this decision.
2. Either party may file comments regarding this decision within 10 days of service of the decision. OAR 860-016-0030(10). The Commission will accept or reject the decision within 30 days. OAR 860-016-0030(11).

Dated at Salem, Oregon, this 21st day of January, 2011.



Shani M. Pines
Arbitrator