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December 14, 2005

**VIA ELECTRONIC FILING**

Hon. Alan Arlow  
Public Utility Commission of Oregon  
550 Capitol Street, N.E., Suite 215  
Salem, OR 97301-2551

Re: ARB 671 – Universal Telecom, Inc. Motion to Compel; Qwest Unauthorized  
Surreply dated December 13, 2005

Dear Judge Arlow:

Universal Telecom, Inc. (“Universal”) is in receipt of Qwest Corporation’s (“Qwest”) unauthorized “Surreply to Universal Reply” (“Surreply”) dated December 13, 2005. Pursuant to 860-013-0036(3), Universal respectfully requests that your honor reject Qwest’s unauthorized pleading and not accept it for official filing.

Qwest’s unauthorized Surreply marks the company’s third suspect filing in recent weeks in this docket. It is time for your honor to put a stop to Qwest’s dubious advocacy. First, by joint letter dated November 11, 2005 Qwest and Universal agreed to waive the evidentiary hearing scheduled in this matter in favor of “final briefs” of no more than 10 pages in length. On November 18, 2005 Qwest filed a brief totaling 12 pages in length. Universal, as a courtesy to opposing counsel, accepted Qwest’s explanation that the extra two pages were owing to a formatting issue.

Second, by letter dated November 28, 2005 Qwest filed a “Request for Official Notice of Order No. 05-1219 in Docket No. IC-9.” Rather than simply attaching the decision and asking that your honor take notice of it, Qwest included three and one half pages of discussion and argument concerning Order No. 05-1219. Qwest’s filing necessitated Universal to file its own response on December 7, 2005, in which Universal noted that Universal believes your honor and the Commission (obviously) are already aware of Order No. 05-1219, and responding to Qwest’s additional and substantive arguments.

Hon. Alan Arlow  
December 14, 2005  
Page 2

Third, comes now Qwest's latest and unauthorized letter, two more pages of argument purporting to rebut Universal's reliance on the sworn testimony of Qwest employee Linda Downey for the proposition that Qwest has in its possession the information necessary to respond to Universal data requests Nos. 20 and 21. Qwest's Surreply is not contemplated by the Commission's rules and should be rejected summarily. Qwest appears constitutionally incapable of letting another party have the equal or last word, even when expressly and previously agreed by Qwest or required by the Commission's rules. Universal requests, in the strongest possible terms, that your honor reject Qwest's unauthorized submittal and proceed to a decision in this matter.

In the alternative, Universal respectfully requests that your honor consider the following response to Qwest's unauthorized Surreply, in the interests of holding Qwest to the Commission's rules and basic notions of fair play: Universal offered excerpts of Ms. Downey's sworn testimony to support its contention that Qwest is fully aware of the reciprocal compensation terms and conditions of all its interconnection arrangements in all Qwest states, and how state commissions enforce such terms and conditions. Qwest's attempts to wordsmith around Ms. Downey's clear statements (by implying that Qwest keeps reciprocal compensation records only for voice traffic) fail to rebut Universal's larger and obvious point. Further, Qwest's argument in this sense borders on inconceivability. Qwest keeps detailed records on its reciprocal compensation responsibilities for ISP-bound traffic (as the company would for any financial liability) for at least the following reasons: (i) Contractual obligations; (ii) General and internal accounting requirements; (iii) State utility commission reporting requirements; (iv) Federal Communication Commission reporting requirements; (v) Securities and Exchange Commission reporting requirements; (vi) Federal and state tax requirements; and (vii) common sense. Ms. Downey testified that she is aware of Qwest's internal processes across multiple states in this regard. Qwest's voice traffic feint should be disregarded.

Qwest's second observation – that Ms. Downey's answers did not speak to Qwest's reciprocal compensation payments on *all* ISP-bound traffic – is flatly wrong:

Q Have you excluded any reciprocal compensation payments for any ISP, based on the belief that some traffic crossed local calling areas?

A I don't think it's been an issue in our payment, no.

\* \* \*

Q Have you excluded or denied payment for any reciprocal compensation because you believe any calls crossed local calling areas?

A Minutes of use type, no.

Hon. Alan Arlow  
December 14, 2005  
Page 3

*Qwest Corp. v. Universal Telecom, Inc.*, Case No. 04-cv-6047-AA (U.S. District Court – OR), Deposition of Linda Downey at 53, 54-55 (Aug. 11, 2004). Ms. Downey was clearly testifying as Qwest’s subject matter expert on CLEC bills for reciprocal compensation:

Q Is that a correct way for them to look at your group, are you the subject matter experts for CLEC bills to Qwest?

A I believe so, yes. . . And as far as like some of the subject matter expert stuff on recip comp, I was sort of the – I’ve been that person since mid ’99.

*Id.* at 29-30. Ms. Downey further testified that Qwest has an internal set of processes that address reciprocal compensation billing by CLECs:

Q I have added to your growing list of responsibilities at Qwest reviewing interconnection agreements for billing setup purposes, is that a fair way to characterize it?

A Yes.

*Id.* at 29. In short, Ms. Downey was (and upon information and belief, still is) Qwest’s subject matter expert on reciprocal compensation obligations facing the company. She and her group review interconnection agreements for billing setup purposes, ***meaning Qwest has internal processes to track its financial obligations to CLECs.*** And most critically, Ms. Downey had personal knowledge of *all* such arrangements, including those where ISP-bound traffic crossed local calling area boundaries, not just voice traffic as Qwest now claims.

Third, Universal has not claimed that there exists a pre-prepared list at Qwest that would answer data requests Nos. 20 and 21. Rather, Universal has maintained that this data exists at Qwest (as Ms. Downey essentially admitted) and that it is not burdensome on Qwest to summarize the data in list form. Qwest’s repetitive use of the phrase “special study” is clearly intended to dissuade your honor from requiring Qwest to turn over what it already has, albeit in a simpler form than Qwest apparently maintains such information.

Finally, Universal disputes that Ms. Downey’s deposition did not address RUF issues:

Q What about other –

A The RUF calculation, yes.

Q How has that impacted the RUF calculation?

A It’s something that the CLEC is responsible for. The minutes of use that are, quote, we’re calling VNXX outside the local calling area, are the responsibility of the CLEC. We are starting to move that into our RUF calculations.

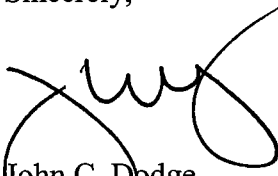
Hon. Alan Arlow  
December 14, 2005  
Page 4

*Id.* at 55. Ms. Downey *herself* introduced the RUF issue at her deposition and her testimony clearly and irrefutably establishes that Qwest has internal procedures governing RUF treatment of CLECs.

Qwest's latest unauthorized letter is chock full of misdirection and misstatements. Unfortunately for Qwest, facts are stubborn things. Here the facts are that a Qwest employee has testified under oath that Qwest maintains the very information Universal seeks to compel, and on issues not only relevant, but indispensable, to this case. Universal respectfully reiterates its request that your honor reject Qwest's unauthorized Surreply or, in the alternative, consider the responsive points contained herein.

Universal also respectfully reiterates its request that its Motion to Compel be granted in full.

Sincerely,



John C. Dodge

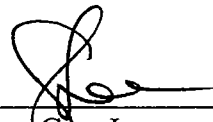
**CERTIFICATE OF SERVICE**

I, Gina Lee, hereby certify that on 14th day of December, I caused copies of forgoing Universal Telecom Inc. comments to Qwest Unauthorized Surreply dated December 13, 2005 to be sent by both electronically and first class mail to the following parties:

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Gina Lee