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December 9, 2005

**VIA ELECTRONIC FILING**

Ms. Frances Nichols Anglin  
Public Utility Commission of Oregon  
550 Capitol Street N.E. Suite 215  
Salem, Oregon 97301-2551

**Re: ARB 671**

Dear Ms. Nichols Anglin:

Enclosed for filing in the above-captioned matter please find Reply of Universal Telecom, Inc. to Qwest Corp.'s Opposition to Universal's Motion to Compel. Copies of the same will be electronically filed and served on the parties electronically.

Kindly date-stamp as timely filed the additional copy enclosed and return it to the undersigned in the postage prepaid envelope also enclosed.

Please direct any questions regarding this matter to the undersigned. Thank you for your consideration of this matter.

Sincerely,



K.C. Halm

Enclosures

**BEFORE THE  
OREGON PUBLIC UTILITIES COMMISSION**

In the Matter of the Petition of

**Qwest Corporation**

for Arbitration of Interconnection Rates,  
Terms, Conditions, and Related Arrangements  
with Universal Telecom, Inc.

**ARB 671**

**REPLY OF UNIVERSAL TELECOM, INC.  
TO QWEST CORP.'S OPPOSITION TO UNIVERSAL'S MOTION TO COMPEL**

**UNIVERSAL TELECOM, INC.**

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*Its Attorneys*

December 9, 2005

Universal Telecom, Inc. (“Universal”) through its undersigned counsel files this Reply to Qwest’s Opposition (“Qwest Opp.”) to Universal’s Motion to Compel filed in this docket on November 23, 2005.

Broadly speaking, Qwest makes three points in opposition to Universal’s motion. First, Qwest argues that the discovery requests are unduly burdensome because they would require Qwest to conduct a special study, or alternatively, legal research on Universal’s behalf. *See* Qwest Opp. at 7-9. On this point Qwest states that it does not possess the information sought (although sworn deposition testimony given by one of Qwest’s key employees just last year suggests otherwise). Second, Qwest argues that the discovery requests seek information about matters outside of Oregon that are irrelevant to the issues in this proceeding. *See* Qwest Opposition at 5-7. Finally, Qwest suggests that it “offered” to provide to Universal the information requested in its discovery, but that Universal has rejected Qwest’s offer. *See* Qwest Opp. at 2.

**I. BECAUSE QWEST *ALREADY POSSESSES* THE INFORMATION SOUGHT IT WOULD NOT BE AN UNDUE BURDEN FOR QWEST TO RESPOND TO UNIVERSAL’S DISCOVERY**

In opposing Universal’s motion Qwest argues (repeatedly) that Universal’s discovery request amounts to an undue burden because: 1) it would require Qwest to perform a special study (Qwest Opp. at 7-8); and, 2) it would require Qwest to conduct legal research on Universal’s behalf. (Qwest Opp. at 8-9) To support these arguments Qwest asserts that Universal’s request would require Qwest to conduct exhaustive research in each of the States it operates in order to respond to the request. This is necessary, says Qwest, because it does not have knowledge of the information sought by Universal. *Id.*

Qwest's arguments should be considered in light of the specific request that Universal made (if one were to accept Qwest's characterization one might believe that Universal asked Qwest to move heaven and earth). In fact, Universal's requests do not ask Qwest to perform any legal research or conduct any "special studies." Indeed, Universal does not ask Qwest to actually produce actual interconnection agreements or State PSC orders. Instead, Universal simply asks Qwest to identify those states in which Qwest has "agreed or been ordered to pay reciprocal compensation on all ISP-bound traffic..." (*See* Universal Data Request No. 20); and any state where Qwest "has agreed or been ordered to accept financial responsibility for all facilities on its network used to deliver originating traffic to a point of interconnection with an interconnected CLEC." (*See* Universal Data Request No. 21) And, where that has happened, Universal asks Qwest to provide citations to the appropriate PSC Order requiring that behavior.

Would this simple task require Qwest to conduct a special study? Only if one believes that Qwest has no knowledge of the terms and conditions of its existing interconnection agreements. But that is precisely what Qwest *does* have. That Qwest and its employees have a depth of knowledge as to the terms of their existing interconnection agreements is demonstrated by the recent actions of Qwest's own employee, Linda Downey.

Ms. Downey is a Senior Access Manager with Qwest. *See* Exhibit A (excerpts from deposition of L. Downey at p. 4, lines 22-24). In that position her job responsibilities include the review and analysis of interconnection agreements with CLECs. As Ms. Downey explained in her own words: "every time we have a CLEC sign up for a new interconnection agreement, I review the interconnection agreement and . . . find the election [for reciprocal compensation purposes] that they've made for voice traffic, I will send a form off to the billing group to let them know this is how that CLEC should be billed ..." *Id.* (p. 28, lns. 17-25). Thus, Ms.

Downey is responsible for *reviewing new interconnection agreements* with CLECs. Also, Ms. Downey also testified that she is “involved with contract negotiators [who] will call me and say this is the wording that someone’s proposed, could you live with this, does it fit into what you understand recip comp to be.” *Id.* (p. 29, lns.1-4). In other words, Ms. Downey is responsible for determining appropriate contract language in new agreements with CLECs *regarding the scope of the reciprocal compensation provisions of the agreement*. Thus, Ms. Downey is clearly a person within the Qwest organization who is responsible for knowing what these agreements say, and how they affect Qwest’s rights.

At the outset of the civil litigation between Qwest and Universal Ms. Downey was deposed. During the deposition Ms. Downey, under oath, responded to multiple questions about the terms and conditions contained in Qwest’s interconnection agreements. And Ms. Downey represented to have knowledge of the terms and conditions of these agreements in multiple states in Qwest’s territories. Indeed, Ms. Downey testified as to Qwest’s reciprocal compensation payment obligations (obviously governed by interconnection agreements or SGAT) with multiple CLECs in multiple states.

Specifically, Ms. Downey testified as to Qwest’s compensation obligations under agreements with CLECs in Minnesota (p. 51, ln. 2), Colorado (p. 51, lns. 15-16), New Mexico (p. 52, ln. 7), Washington, (p. 54, ln. 18), Arizona (p. 54, ln. 19) and Utah (p. 54 ln. 21). (Copies of excerpts of Ms. Downey’s deposition are attached as Exhibit A). Thus, Ms. Downey has personal knowledge of the terms and conditions under which Qwest pays reciprocal compensation to CLECs in *at least six other states* as well as Oregon. Moreover, Ms. Downey referenced CLEC operations that occur in multiple states (p. 51, lns. 7-10) which suggests that she possesses knowledge of terms in additional states.

It is therefore unnecessary for Qwest to conduct a special study to respond to Universal's simple discovery requests because Ms. Downey, or other persons in her organization, admittedly already possess the knowledge necessary to answer the question.

Indeed, even a passing familiarity with the intensity in which Qwest negotiates, arbitrates and litigates the terms of its interconnection agreements suggests that Qwest's claim here (that it has no knowledge of the terms of its agreements in other states) is specious. The fact is, Qwest is a very sophisticated corporation that employs teams of persons to manage, negotiate, arbitrate and litigate the terms of its interconnection agreements. To suggest to this Commission that Qwest is ignorant of the terms of its own agreements in other states is beyond belief.

Qwest's employees clearly possess the requisite knowledge to respond to Universal's limited discovery request. For that reason the Arbitrator should order Qwest to respond to Universal's request, or in the alternative, should order Qwest to make Ms. Downey available for a limited deposition on this matter.

**II. IF THE ACTIONS OF OTHER STATE PSCs ARE IRRELEVANT (AS QWEST ARGUES) THEN QWEST CAN NOT RELY UPON SUCH DECISIONS TO SUPPORT ITS SUBSTANTIVE POSITIONS IN THIS PROCEEDING**

Qwest also tries to avoid its obligations by claiming that Universal's discovery requests are not relevant to the issues in this case. Specifically, Qwest argues that PSC decisions issued by other states are not relevant or binding on the Oregon PUC. Qwest Opp. at 5-6.

But this position is somewhat curious given that Qwest's legal arguments in this case repeatedly cite to decisions from other state PSCs. Qwest cites to multiple decisions from other state commissions to support its various legal arguments. Indeed, Qwest's Initial Brief at 16-17

cites decisions from Arizona, Colorado, Utah and Idaho<sup>1</sup> and the heading of its argument in that section (Section I.C.) states that other jurisdictions have issued decisions favorable to Qwest. Indeed, it seems that Qwest's leading case is a decision coming out of the Colorado PUC and later affirmed by a Colorado district court.

So, Qwest would like this Commission to follow the decisions of other state commissions when it is in Qwest's interests. But when Universal goes down that path to see if alternate treatment of reciprocal compensation or RUF might in fact be taking place, or have taken place, Qwest quickly objects on the grounds that what happens in other states is "not relevant." Qwest Opp. at 5-6. But Qwest can not have it both ways. If Universal is denied the ability to pursue this line of questioning because what happens in other states "is not relevant" then the decisions from Colorado and elsewhere that Qwest cites must be disregarded completely because they, too, are simply not relevant here.

Moreover, Qwest elides over the concerns raised by Universal about the utility of public research given Qwest's very public failures concerning the filing of interconnection agreements in a number of states in its territory (Minnesota, Washington, Arizona and Oregon come to mind).

Universal's concern is that any public research may not turn up documents given Qwest's failure to file agreements in Oregon, Minnesota and elsewhere.<sup>2</sup> One could easily imagine a scenario that could prejudice Universal's ability to obtain all Qwest agreements relevant to this question. By way of example the following circumstances might unfold: (1) Qwest entered an ICA in a state outside Oregon that contains terms and conditions favorable to Universal's

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<sup>1</sup> See Qwest Initial Brief at 16-17 (citing decisions from Arizona, Colorado, Utah and Idaho).

<sup>2</sup> In addition, not all PUC databases are as reliable as the Oregon PUCs which suggests that even where Qwest did cure its past failures to file agreements those agreements may not have been assimilated into the PUC databases.

position on RUF and/or recip comp. (2) Qwest did not timely file that ICA with the relevant state commission. (3) Qwest later discloses the ICA at the direction of the relevant state commission.

Under those circumstances there is a very real possibility that the new proceeding may not place the agreement, or agreement-related documents, back into the database of agreements that should have been available previously. Instead, these documents will simply be attachments, often not available through traditional search methods, in the new proceeding.

Thus, there are some circumstances in which Universal would not be able to identify other available agreements which may be relevant to the issues in this proceeding. For that reason it is appropriate for Qwest to simply identify the states in which such agreements exist, along with relevant information concerning dockets, date of filings and other parties to the agreement. That is hardly the overbearing and burdensome task that Qwest suggests is required of Universal's data requests.

### III. CONCLUSION

For the reasons stated herein,<sup>3</sup> the Arbitrator should order Qwest to respond to Universal's discovery requests.

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<sup>3</sup> Qwest's supposed offer to provide information to Universal did not respond to the information sought by Universal. Specifically, Universal asked for information in other states, but Qwest's offer was simply to allow Universal to review documents that Universal already has in its possession and which relate only to Oregon. Therefore, Qwest's disingenuous suggestion that it tried to resolve this dispute with a good faith offer is simply not credible.



Respectfully submitted,

By:  \_\_\_\_\_

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December 9, 2005

**CERTIFICATE OF SERVICE**

I, K.C. Halm, hereby certify that on 9<sup>th</sup> day of December 2005, I caused copies of forgoing Reply of Universal Telecom, Inc. to Qwest Corp.'s Opposition to Universal's Motion to Compel to be sent by electronically to the following parties:

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K.C. Halm

**EXHIBIT A** Deposition Transcript of  
Linda Downey

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 Case No. 04-CV-6047-AA

4  
5 DEPOSITION OF LINDA DOWNEY

6  
7 QWEST CORPORATION, a Colorado corporation,  
8 Plaintiff,

9 vs.

10 UNIVERSAL TELECOM, INC., dba US POPS, formerly known as  
11 UNIVERSAL TELECOMMUNICATIONS, INC., an Oregon  
12 corporation,

13 Defendant.

14  
15 WEDNESDAY, AUGUST 11, 2004  
9:20 A.M.

16 PURSUANT TO NOTICE and the Federal Rules of Civil  
17 Procedure, the above-entitled deposition was taken on  
18 behalf of Defendant at 1801 California Street, 49th  
19 Floor, Denver, Colorado, before Jane L. Escobar,  
20 Registered Professional Reporter and Notary Public  
21 within the State of Colorado.

22  
23  
24  
25  **Patterson**  
Reporting & Video Service, Inc.

3

1 PROCEEDINGS  
2 LINDA DOWNEY,  
3 having been first duly sworn, was examined and  
4 testified as follows:  
5 EXAMINATION  
6 BY MR. CALDWELL:  
7 Q Good morning.  
8 A Good morning.  
9 Q Can you state your name for the record,  
10 please?  
11 A Linda Downey.  
12 Q What's your business address, Ms. Downey?  
13 A 1314 Douglas On the Mall, Omaha, Nebraska.  
14 Q Who do you work for?  
15 A Dan Hult.  
16 Q I'm sorry. What company do you work for?  
17 A Qwest.  
18 Q And do you also reside in the Omaha, Nebraska  
19 area?  
20 A In the area but in Iowa.  
21 Q What town, what city and state do you live in?  
22 A Malvern, Iowa.  
23 Q Have you had your deposition taken before?  
24 A No.  
25 Q Well, I'm going to be asking you some

4

1 questions today.  
2 A Okay.  
3 Q My intent is to be as clear as possible in  
4 asking those questions. I don't want to confuse you.  
5 Sometimes I fail at being clear, and if I do that, I  
6 want you to let me know that you don't understand the  
7 question and I will try to do better.  
8 A Okay.  
9 Q Your counsel may object from time to time.  
10 Unless he instructs you not to answer a question, after  
11 he objects, you can go ahead and answer the question.  
12 A Okay.  
13 Q If you want to take a break at any time, just  
14 let me know. I will accommodate you however I can.  
15 A Okay.  
16 Q Have you taken any medication or any  
17 controlled substance in the last 24 hours that would  
18 prevent you from understanding my questions and  
19 answering them today?  
20 A No.  
21 Q What is your present position at Qwest?  
22 A I am a senior access manager with other access  
23 managers reporting to me, other senior access managers  
24 reporting to me.  
25 Q Could you just briefly describe for me your

5

1 work history prior to becoming a senior access manager?  
2 A When I started with the company, I started in  
3 what was called classifications at that time. It's now  
4 technical accounting. I was right out of school, and I  
5 was using my accounting degree in that position. I  
6 moved to state dereg for Iowa, back to classifications,  
7 then to separations, then to state regulatory, then to  
8 wholesale.  
9 Q And wholesale is where you are now?  
10 A Yes.  
11 Q When did you move to wholesale?  
12 A I think I went in to wholesale in like the  
13 1998 timeframe. It was always finance, and I can't  
14 remember at that time if we were finance supporting  
15 wholesale or if we were wholesale finance, but I was  
16 supporting the wholesale functions.  
17 Q Can you put dates around the other moves that  
18 you made? You said you started in technical accounting?  
19 A Uh-huh.  
20 Q When did you start in technical accounting?  
21 A March of '84.  
22 Q When did you move to state dereg?  
23 A Probably a couple of years later. And then I  
24 think -- I can't remember if I stayed in state dereg  
25 more than a year or not, so maybe about a year I moved

6

1 back.  
2 Q After state -- is that state deregulation?  
3 A It was specifically state deregulation for  
4 Iowa.  
5 Q For Iowa.  
6 And I had your next move as going to  
7 classifications?  
8 A Which was technical accounting again. And I  
9 think I stayed there another two years, and then  
10 separations was probably three. I don't know if that's  
11 adding up to 20, but--.  
12 Q So let me give you the dates that I've put on  
13 this then. You were in classifications, technical  
14 accounting starting March 1984 and were there about two  
15 years when you went to state deregulation for Iowa.  
16 A Yeah.  
17 Q You then moved from state deregulation for  
18 Iowa back to classifications after about a year, so that  
19 would be about 1987, correct?  
20 A Yes.  
21 Q You then went two years of classifications  
22 until 1989 when you moved to separations.  
23 A Okay.  
24 Q Is that correct, to the best of your  
25 recollection?

27

1 **Q And what do you think your dollar level of**  
 2 **authority is?**  
 3 A I think I'm limited to like 25,000.  
 4 **Q So when you're directly responsible for CLECs,**  
 5 **as you are in Iowa, other than validating billing,**  
 6 **authorizing payments and being involved in dispute**  
 7 **resolution, do you have any other functions?**  
 8 A No, because I think all of the functions fall  
 9 within one of those categories.  
 10 **Q So then as I understand it today, your**  
 11 **responsibilities are to have other access managers**  
 12 **report to you --**  
 13 A Yes.  
 14 **Q -- on CLECs?**  
 15 A Yes.  
 16 **Q And then you were also directly responsible**  
 17 **for Iowa CLECs?**  
 18 A Primarily Iowa. There are a few others, but  
 19 primarily Iowa, yes.  
 20 **Q And then within that function we have a subset**  
 21 **of three things that you do in that function, correct?**  
 22 A Yes.  
 23 **Q Do you have any other responsibilities?**  
 24 A The dispute resolution is a subset of my Iowa  
 25 activity, but it's also a subset of all of the senior

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1 access managers that are reporting to me.  
 2 **Q So a third category would be dispute**  
 3 **resolution involvement in CLECs that you don't have**  
 4 **direct responsibility for?**  
 5 A Yes. Yes. That would be correct.  
 6 **Q In other words, when Miss Batz comes to you**  
 7 **about Universal you get involved in dispute resolutions**  
 8 **then?**  
 9 A Yes.  
 10 **Q Do you have any other functions or**  
 11 **responsibilities?**  
 12 A I don't know that they wouldn't all fit within  
 13 those categories. I don't think so, no.  
 14 **Q Well, is there anything else that you want to**  
 15 **describe that would fit within those categories?**  
 16 A Okay. Let's think. Right now for some reason  
 17 I got stuck with every time we have a CLEC sign up for a  
 18 new interconnection agreement, I review the  
 19 interconnection agreement and let the billing group know  
 20 if there have been map specifications in that  
 21 interconnection agreement, if I can find the election  
 22 that they've made for the voice traffic, I will send a  
 23 form off to the billing group to let them know this is  
 24 how that CLEC should be billed, should they ever order  
 25 facilities in this state.

29

1 I get involved with contract negotiators will  
 2 call me and say this is the wording that someone's  
 3 proposed, could you live with this, does it fit into  
 4 what you understand recip comp to be.  
 5 And then -- okay. This is -- when we're  
 6 talking about the contract negotiators, they're also  
 7 concerned about could you ever even track this if you  
 8 were to be billed in this manner, do we even have the  
 9 systems to track it, do we know how to identify it, is  
 10 this going to cause you a problem as far as validation.  
 11 **Q I have added to your growing list of**  
 12 **responsibilities at Qwest reviewing interconnection**  
 13 **agreements for billing setup purposes, is that a fair**  
 14 **way to characterize it?**  
 15 A Yes.  
 16 **Q And supporting contract negotiators on some**  
 17 **issues.**  
 18 A Yes. And I guess with that, too, the same  
 19 kind of issues sometimes come up with product when they  
 20 are trying to roll out a new product or change an  
 21 existing product. It's like this is what we're thinking  
 22 about, is it going to cause you any problems.  
 23 **Q So you support product managers as well?**  
 24 A On a very cursory basis, yes.  
 25 **Q And by support product managers, I mean,**

30

1 **again, if they have questions about how things would ac**  
 2 **for billing purposes?**  
 3 A And more the bills that we would receive, but  
 4 they're looking at myself and my team as subject matter  
 5 experts on the CLEC bills to Qwest.  
 6 **Q Is that a correct way for them to look at your**  
 7 **group, are you the subject matter experts for CLEC bills**  
 8 **to Qwest?**  
 9 A I believe so, yes.  
 10 **Q Now, do you think that's a complete list of**  
 11 **everything that you do in a given day, week, or month?**  
 12 A I think so.  
 13 **Q All right. And how long have you had that set**  
 14 **of responsibilities?**  
 15 A Okay. Basically I think that all -- well, at  
 16 least with the senior access manager team coming to  
 17 work, report to me, was mid 2002. And as far as like  
 18 some of the subject matter expert stuff on recip comp, I  
 19 was sort of the -- I've been that person probably since  
 20 mid '99.  
 21 **Q How about being directly responsible for Iowa**  
 22 **CLECs, how long have you had that responsibility?**  
 23 A 2003, probably mid-year.  
 24 **Q Supporting your access managers in dispute**  
 25 **resolution, does that go back to mid 2002 again?**

47  
1 A Not for nonpayment to Universal from when we  
2 stopped paying Universal for minutes that we were not  
3 disputing, and I don't know what -- I think on some of  
4 the RUF issues Suzie has -- does she have it tagged by  
5 CLEC? I'm not sure if Suzie has it tagged by CLEC or it  
6 takes all of the different issues into consideration in  
7 billed for dollars. I think she might do so. I don't  
8 know. No, I do think she has CLEC specific on the  
9 billing side.

10 Q On RUF issues did you say?

11 A Uh-huh.

12 Q What does that mean, what does she book on RUF  
13 issues, if anything?

14 A Right now we're currently billing Universal at  
15 100 percent because we've not been able to agree on a  
16 RUF. And at least -- up until our understanding of how  
17 the traffic went to Universal, we were thinking we  
18 probably owed them some credit on that. Now we're  
19 unclear that we do owe them credit and 100 percent may  
20 be fully appropriate.

21 Q Well, at some point you thought you owed them  
22 some credit?

23 A Yes.

24 Q What credit did you think you owed them?

25 A A rough percentage.

48  
1 Q Of what?

2 A Traffic going across, traffic that we needed  
3 to take responsibility for.

4 Q What was the percentage that you thought?

5 MR. SMITH: If you know.

6 THE DEPONENT: I don't remember.

7 Q (BY MR. CALDWELL) You haven't calculated that  
8 yourself?

9 A No, I have not. And I did not double-check  
10 Nancy's calculations. She can do math.

11 Q And so was that recorded some way by Suzie to  
12 show that even though you're billing at 100 percent  
13 there may be some credit owed?

14 A I believe so, yes.

15 Q Now you said that at least until we understood  
16 how traffic was getting to Universal we thought we owed  
17 them the credit. What did you mean by that?

18 A Well, it's my understanding that right now it  
19 looks like maybe all of the traffic does not stay in the  
20 local calling area. And if that's the case, then I  
21 don't believe Qwest owes any credit.

22 Q Why not?

23 A Excuse me?

24 Q Why not?

25 A Because I think --

49  
1 MR. SMITH: Before -- I will impose an  
2 objection. It does call for a legal conclusion. Go  
3 ahead and answer if you can.

4 THE DEPONENT: Okay. I believe the  
5 interconnection --

6 MR. CALDWELL: Well, she said she had an  
7 opinion. She said we thought we owed the credit.

8 MR. SMITH: I told her to go ahead and answer  
9 the question.

10 MR. CALDWELL: But you have an objection on  
11 the record where you're saying you think it calls for a  
12 legal conclusion, which she's an accounting person and  
13 she's talking about accounting and we owe credit so I  
14 guess --

15 MR. SMITH: If you don't like my objection,  
16 that's fine. I told her to go ahead and answer the  
17 question if she can.

18 MR. CALDWELL: I guess that was my point. Go  
19 ahead.

20 THE DEPONENT: Okay. I believe the  
21 interconnection agreement are interconnection agreements  
22 for local traffic only. That's the only thing  
23 interconnection agreements should be covering. If it's  
24 a toll involved in there or switched access, the tariff  
25 in the state is referenced, either specifically or at

50  
1 least by tariff.

2 So if it falls outside the local calling area,  
3 it's no longer part of the interconnection agreement.  
4 If it's not part of the interconnection agreement, it's  
5 not covered under RUF.

6 Q (BY MR. CALDWELL) Well, do you have -- does  
7 Qwest have CLECs that it's currently paying reciprocal  
8 compensation for ISP-bound traffic?

9 A Yes.

10 Q Do you know roughly how many CLECs that it's  
11 paying, that Qwest is paying reciprocal compensation for  
12 ISP-bound traffic?

13 A I think a significant number of our CLECs have  
14 some ISP, at least some ISP-bound traffic associated  
15 with them. We have a few that are 100 percent ISP.

16 Q Which are 100 percent ISP?

17  
18 MR. SMITH: This likewise will be  
19 confidential.

20 Q (BY MR. CALDWELL) Okay. Go ahead.

21 A CP Telecom, KMC. I think they are 100  
22 percent. I believe ICG is 100 percent in selected  
23 states, Oregon being one of them, the last I looked at  
24 the traffic pattern. I'm sure there are others, but I'm  
25 blanking them out now.

REDACTED

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1 **Q Where's CP Telecom operate?**  
2 A Minnesota.  
3 **Q Where does KMC operate?**  
4 A KMC, I think we even have one in Oregon as  
5 well as Minnesota, and I don't know if they operate in  
6 any other states right now. They may, but --  
7 **Q And Level 3, they operate in multiple states?**  
8 A Pardon?  
9 **Q Multi-state?**  
10 A Yes.  
11 **Q ICG, you said it's 100 percent ISP-bound**  
12 **traffic for selected states.**  
13 A In Oregon the last I looked at the traffic  
14 pattern, I believe it was 100 percent ISP. They are  
15 also in Colorado, and they are not 100 percent ISP in  
16 Colorado, significant portions of it, but not 100  
17 percent.  
18 **Q And what portion is ISP nontraffic in Colorado**  
19 **for ICG?**  
20 A Boy, I'm sorry. I'd be guessing.  
21 **Q Now, do you know the technology by which any**  
22 **of those CLECs serve their ISP customers?**  
23 A Nope.  
24 **Q Do you know whether any of those CLECs have**  
25 **single points of interconnection with Qwest in any given**

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1 **LATA?**  
2 A I believe they do.  
3 **Q All of them?**  
4 A I believe so, yes. I believe the ones that  
5 I've mentioned at least have signed up for the SPOP.  
6 Whether they've incorporated it, I'm not sure.  
7 Oh, and Cyber Mesa, New Mexico.  
8 **Q That's another one that's 100 percent**  
9 **ISP-bound traffic?**  
10 A Yeah. Yes. Well, at least 99.9 percent. I  
11 think they have a little bit of traffic coming back to  
12 us but --  
13 **Q Yeah. I assumed that you'd be talking about**  
14 **when you say 100 percent, you know, in the same way we**  
15 **answered discovery in this case, that basically 100**  
16 **percent, something very close to it.**  
17 A Okay.  
18 **Q With that understanding, are there any**  
19 **additional ones that you would add to the list?**  
20 A Not currently. I might remember more later.  
21 MR. SMITH: Go ahead and finish the line. I'm  
22 just looking and it's time and we're about --  
23 **Q (BY MR. CALDWELL) Where CLECs have a single**  
24 **point of interconnection with Qwest in a LATA, would you**  
25 **believe that they have traffic coming to them that is**

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1 **crossing local calling areas?**  
2 A Yes.  
3 MR. SMITH: I'll object. It calls for  
4 speculation.  
5 **Q (BY MR. CALDWELL) Have you excluded those**  
6 **calls for payment of reciprocal compensation? Let me**  
7 **strike that and try again with a better question.**  
8 A Okay.  
9 **Q A more clear question, hopefully.**  
10 **Have you excluded any reciprocal compensation**  
11 **payments for any ISP, based on the belief that some**  
12 **traffic crossed local calling areas?**  
13 A I don't think it's been an issue in our  
14 payment, no.  
15 **Q When you say -- because I was asking for a yes**  
16 **or no, and so you made a qualification, you have to**  
17 **explain it for me, please.**  
18 A Like Cyber Mesa. They came in after the FCC  
19 order. They didn't have traffic exchanged with us in  
20 the first quarter of 2001, so they will never be paid  
21 for ISP traffic and so it doesn't need to be an issue  
22 with them because we're not ever going to pay them for  
23 that.  
24 The same with ICG in Oregon. They did not  
25 have traffic in the first quarter in 2001, and we will

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1 never pay them for ISP traffic.  
2 KMC in Oregon, same thing. KMC in Minnesota,  
3 we are paying for some ISP traffic. Minnesota has so  
4 many different calling LATAs in the state that at least  
5 currently, and I haven't taken a detailed look at it,  
6 but for the most part it's very hard for one to call out  
7 of a local calling area in a LATA in Minnesota because I  
8 think there's four or five different LATAs in Minnesota.  
9 **Q How about Level 3?**  
10 A Level 3, we are paying them in states that  
11 they were, that we're exchanging traffic with in the  
12 first quarter of 2001, and that was not an issue at the  
13 time those caps were set. The VNXX issue was not a  
14 known identified issue at the time we set the caps for  
15 Level 3.  
16 **Q In what states are you paying Level 3**  
17 **reciprocal compensation for ISP-bound traffic?**  
18 A I believe we were paying in Washington. I  
19 think in Arizona, and I -- I think we're paying them in  
20 like three states, but I'm not sure exactly which ones.  
21 I think Utah, but I tend to get my CLECs sometimes  
22 confused.  
23 **Q Have you excluded or denied payment for any**  
24 **reciprocal compensation because you believe any calls**  
25 **crossed local calling areas?**



1 STATE OF COLORADO)

2 ) SS. REPORTER'S CERTIFICATE

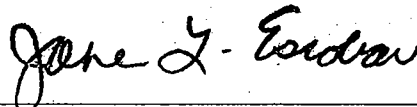
3 COUNTY OF DENVER )

4 I, Jane L. Escobar, do hereby certify  
5 that I am a Registered Professional Reporter and  
6 Notary Public within the state of Colorado; that  
7 previous to the commencement of the examination,  
8 the deponent was duly sworn by me to testify to the  
9 truth.

10 I further certify that this deposition was  
11 taken in shorthand by me at the time and place herein  
12 set forth and was thereafter reduced to typewritten  
13 form, and that the foregoing constitutes a true and  
14 correct transcript.

15 I further certify that I am not related  
16 to, employed by, nor of counsel for any of the parties  
17 or attorneys herein, nor otherwise interested in the  
18 result of the within action.

19 In witness whereof, I have affixed my  
20 signature this 19th day of August, 2004.

21 

22 PATTERSON REPORTING & VIDEO

23 Jane L. Escobar

24 Registered Professional Reporter  
25 and Notary Public