



201 S. Main Street, Suite 1100  
Salt Lake City, Utah 84111  
main 801.328.3131  
fax 801.578.6999  
www.stoel.com

TED D. SMITH  
Direct (801) 578-6961  
tsmith@stoel.com

December 13, 2005

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

Re: ARB 671—Qwest Surreply to Universal Reply—Motion to Compel

Dear Judge Arlow:

Qwest Corporation hereby requests that the Commission consider the following brief surreply to Universal's Reply to Qwest's Opposition to Universal's Motion to Compel.

**Qwest's Surreply**

Data request no. 20 seeks information from Qwest about other states that have ordered Qwest to pay reciprocal compensation on "all" ISP traffic. Data request no. 21 seeks information about to orders from other states related to the financial responsibility for facilities on Qwest's side of the point of interconnection ("POI") between Qwest and other CLECs.

In its reply, Universal claims that Qwest already possesses the information requested in these requests and that it would not be an undue burden for Qwest to provide the information. To support this claim, Universal relies on excerpts from the deposition of Qwest employee Linda Downey in the *Universal* federal court litigation. The excerpts relied upon by Universal do not support Universal's claim.

First, (apparently with regard to data request no. 20), Universal quotes Ms. Downey as saying: "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] they've made for *voice traffic*, I will send off the form to the billing group to let them know how that CLEC should be billed." (Emphasis added). The relevance of this statement to the motion to compel is unexplained, since neither ARB 671 nor data request no. 20 relates to voice traffic. The only

Oregon  
Washington  
California  
Utah  
Idaho



Judge Alan Arlow  
Administrative Law Judge  
December 13, 2005  
Page 2

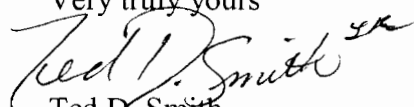
substantive issues in this case relate to ISP traffic, and not voice traffic, which was the subject of the quoted language.

Second, although data request no. 20 asks about other state commissions decisions that have ordered Qwest to pay reciprocal compensation on “all” ISP traffic, that was not the subject matter of the deposition excerpts. The question Ms. Downey was responding to was a completely different question: “[D]oes Qwest have CLECs that it’s currently paying reciprocal compensation for ISP-bound traffic.” Downey Depo. p. 50, lines 6-8. Her response related only to companies to whom Qwest is paying some reciprocal compensation for ISP traffic, and had nothing to do with whether other states had ordered Qwest to pay reciprocal compensation on all ISP traffic. Indeed, the issue of whether Qwest owed reciprocal compensation on “all” ISP traffic was not even an issue in *Universal*. In its proposed language, Qwest does not oppose the payment of terminating compensation to Universal under the regime ordered in the *ISP Remand Order* so long as it is local ISP traffic. Thus, the cited material in the deposition relates to a completely different question than the information sought in data request no. 20.

Third, even a cursory review of the deposition belies Universal’s claim that Qwest the requested information is readily available. Ms. Downey was obviously working from her memory, which she indicated several times was not clear. (*Id. e.g.*, p. 50, lines 23-25; p. 51, line 20). Thus, even on the question Ms. Downey was responding to (which was not the same question as data request no. 20), it is obvious that there is no pre-prepared list in the possession of Qwest that can simply be turned over to Universal. Universal has presented nothing to substantively challenge Qwest’s position that a special study would be required to respond to data request no. 20.

Finally, nothing in the deposition even so much as addresses the subject of data request no. 21, which relates to orders from other commissions addressing the financial responsibility for facilities on Qwest’s side of a point of interconnection.

Universal’s reply provides nothing to support its motion to compel, and Qwest respectfully requests that it be denied.

Very truly yours  
  
Ted D. Smith



Judge Alan Arlow  
Administrative Law Judge  
December 13, 2005  
Page 3

cc: John Dodge  
K. C. Halm  
Alex Duarte  
Nancy Batz

**CERTIFICATE OF SERVICE**

**ARB 671**

I hereby certify that on the 13<sup>th</sup> day of December 2005, I served the foregoing **QWEST CORPORATION'S LETTER TO THE HONORABLE ALAN ARLOW** in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at their regular office address shown below, and deposited in the U.S. post office at Portland, Oregon.

John C. Dodge  
Cole Raywid & Braverman LLP  
1919 Pennsylvania Ave. NW  
2nd Floor  
Washington, DC 20006-3458

Jeffry Martin  
Universal Telecom Inc  
1600 SW Western Blvd.  
Suite 290  
Corvallis, OR 97333

Ted D. Smith  
Stoel Rives LLP  
201 S. Main; Suite 1100  
Salt Lake City, UT 84111

DATED this 13<sup>th</sup> day of December, 2005.

**QWEST CORPORATION**



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

ALEX M. DUARTE, OSB No. 02045  
421 SW Oak Street, Suite 810  
Portland, OR 97204  
Telephone: 503-242-5623  
Facsimile: 503-242-8589  
e-mail: alex.duarte@qwest.com  
Attorney for Qwest Corporation