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August 23, 2007

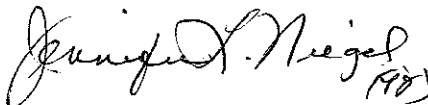
VIA E-MAIL AND FIRST CLASS MAIL

OPUC Filing Center
Oregon Public Utility Commission
PO Box 2148
Salem, OR 97308-2148

RE: ARB 789

Enclosed are the original and five copies of the Direct Testimony of Mitchell Moore for Clear Creek Mutual Telephone Company and Certificate of Service.

Very truly yours,


Jennifer L. Niegel

Enclosures

cc: Service List
Mitchell Moore

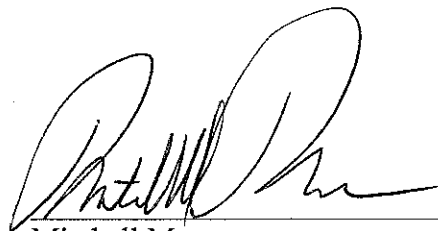
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 4, 2007, I served the Reply Testimony of Mitchell
3 Moore for Clear Creek Mutual Telephone Company upon all parties of record in this proceeding
4 by causing a full, true and correct copy thereof to be sent by e-mail and also by mail in a sealed,
5 first-class postage-prepaid envelope deposited with the United States Postal Service at Stayton,
6 Oregon to the following parties:

7 **BEAVER CREEK COOPERATIVE TELEPHONE COMPANY**
8 TOM A LINSTROM
9 ORGANIZER/ACTING PRESIDENT
10 15223 S HENRICI RD
11 OREGON CITY OR 97045
12 tlinstrom@bctelco.com

13 **MCDOWELL & RACKNER PC**
14 LISA F RACKNER
15 ATTORNEY
16 520 SW SIXTH AVENUE STE 830
17 PORTLAND OR 97204
18 lisa@mcd-law.com

19 DATED: September 4, 2007.

20
21
22


Mitchell Moore
Clear Creek Mutual Telephone Company

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

ARB 789

In the Matter of the Petition of CLEAR)
CREEK MUTUAL TELEPHONE)
COMPANY for Arbitration of an)
Interconnection Agreement with BEAVER)
CREEK COOPERATIVE TELEPHONE)
COMPANY, Pursuant to the 47 U.S.C. §§ 251)
and 252)
)

REPLY TESTIMONY

OF

MITCHELL MOORE

FOR

CLEAR CREEK MUTUAL TELEPHONE COMPANY

September 4, 2007

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I. IDENTIFICATION OF WITNESS

1
2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH**
3 **CLEAR CREEK MUTUAL TELEPHONE COMPANY.**

4 **A.** I am Mitchell Moore. My business address is 18238 S Fischers Mill Road, Oregon City,
5 Oregon. I am employed as the President of the Clear Creek Mutual Telephone Company
6 (“Clear Creek”). I am testifying on behalf of Clear Creek. I filed Direct Testimony in
7 this case.

8
9 **II. PURPOSE OF REPLY TESTIMONY**

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

11 **A.** The purpose of my testimony is to rebut statements made by Mr. Dave Warner in his
12 Direct Testimony, specifically his statement that because the traffic to be exchanged
13 under the proposed Interconnection Agreement (“ICA”) will be negligible, direct
14 interconnection and separation of traffic should not be required. My testimony will also
15 address Clear Creek’s position regarding the comments/clarifications submitted by Qwest
16 Corporation in this case.

17
18 **III. SCOPE OF THE PROPOSED ICA**

19 **Q. IN HIS DIRECT TESTIMONY ON PAGE 2 AT LINE 7, MR. WARNER STATES**
20 **THAT THE PROPOSED ICA INVOLVES NO MORE THAN 50 POTENTIAL**
21 **CUSTOMERS. DO YOU AGREE?**
22

1 A. No. Nothing in the proposed ICA or language proffered by Beaver Creek to date limits
2 the ICA to the residents within Leisure Woods Development and along South Fellows
3 Road. Beaver Creek applied for and was granted in Order 06-155 statewide authority on
4 its competitive Certificate of Authority. Beaver Creek has not offered to modify the
5 scope of that Certificate to limit the service area to those 50 potential customers leaving
6 the balance of the Redland exchange as a service option.

7
8 **Q. IN HIS DIRECT TESTIMONY ON PAGE 3 AT LINE 8, MR. WARNER STATES**
9 **THAT BEAVER CREEK IS WILLING TO ADD A PROVISION TO THE ICA**
10 **VOLUNTARILY AGREEING NOT TO OFFER SERVICE TO CUSTOMERS**
11 **BEYOND THE RESIDENTS OF LEISURE WOODS AND SOUTH FELLOWS**
12 **ROAD. WOULD SUCH LANGUAGE BE SUFFICIENT TO ALLEVIATE**
13 **CLEAR CREEK'S CONCERNS ABOUT THE PROPOSED ICA?**

14 A. No. When Beaver Creek began serving customers in the Leisure Woods Development it
15 did so without a certificate of authority and misused numbering resources in the process.
16 Beaver Creek could only continue to serve the customers it was already servicing without
17 a certificate of authority pursuant to Order No. 04-412 until a certificate of authority was
18 granted. Beaver Creek has expanded service to serve four customers prior to beginning
19 such negotiations in direct violation of the terms of Order No. 04-412. In the past Beaver
20 Creek's Mr. Linstrom has told me directly as well and many others including OPUC
21 Commission staff, that it is his intention to construct a fiber to Damascus and serve as
22

1 many Clear Creek customers as possible along the way. I am wary of any promise made
2 by Beaver Creek to serve only a specified area of the exchange.

3
4 **Q. IN HIS DIRECT TESTIMONY ON PAGE 4 AT LINE 7, MR. WARNER STATES**
5 **THAT BCT DOES NOT PLAN TO PROVIDE SERVICE TO ANY CUSTOMERS**
6 **OUTSIDE THE PORTLAND EAS REGION. IS THIS RELEVANT?**

7 **A.** No. Beaver Creek consistently misconstrues the language in the ICA restricting certain
8 traffic types from traveling over the Local Interconnection Service (LIS) trunks. Beaver
9 Creek feels this requires them to establish trunks for types of service they do not offer. It
10 does not. The language merely describes traffic types not permissible on LIS trunks. If
11 Mr. Warner is correct and they never provide service outside the Portland EAS Region,
12 Beaver Creek would never need to order additional trunk types. Therefore no harm is
13 served by allowing the more descriptive language to remain in the ICA.

14
15 **Q. IN HIS DIRECT TESTIMONY, MR. WARNER STATES THAT DIRECT**
16 **INTERCONNECTION AND SEPARATION OF ILEC AND CLEC TRAFFIC IS**
17 **NOT WARRANTED DUE TO THE LOW VOLUME OF TRAFFIC CURRENTLY**
18 **EXCHANGED BETWEEN BCT AND CCMTC. DO YOU AGREE?**

19 **A.** No. It is not material what volume of traffic is estimated to flow as CLEC traffic must be
20 separated from ILEC traffic to ensure proper billing. Qwest seems to agree "that LIS
21 trunks should be used whenever BCT is operation as a CLEC." See Qwest Amicus
22 Comments at Page 3.

IV. COMMINGLING

1
2 **Q. IN HIS DIRECT TESTIMONY ON PAGE 9 AT LINE 7, MR. WARNER STATES**
3 **THAT HE DOES NOT UNDERSTAND WHY CLEAR CREEK WOULD NOT BE**
4 **ABLE TO CORRECTLY RATE AND BILL FOR ILEC AND CLEC TRAFFIC**
5 **FROM BEAVER CREEK COMMINGLED ONTO THE SAME TRUNKS.**
6 **COULD YOU PLEASE EXPLAIN CLEAR CREEK'S POSITION?**

7 **A.** Beaver Creek wishes to use existing ILEC EAS trunks to exchange its CLEC traffic.
8 Qwest proposes Beaver Creek use existing Beaver Creek LIS trunks to Qwest and
9 existing EAS trunks to Clear Creek. Clear Creek's access billing system supports
10 separation of records on a trunk group basis. If these calls were commingled, Clear
11 Creek's billing vendor would need to re-program the billing system to separate Beaver
12 Creeks CLEC traffic on a NPA NXX basis. If this programming was successful, Clear
13 Creek would have to pay a processing fee each month to read each EAS record to
14 determine the amount Beaver Creek should be billed. With the use of LIS trunks, no
15 special programming would be required since we would be utilizing an industry standard
16 method to interconnect, which our billing system fully supports at this time.

17
18 **Q. IN HIS DIRECT TESTIMONY ON PAGE 9 AT LINE 12, MR. WARNER**
19 **STATES THAT IF CLEAR CREEK IS UNABLE TO CORRECTLY RATE AND**
20 **BILL FOR ILEC AND CLEC TRAFFIC FROM BEAVER CREEK IF**
21 **COMMINGLED, THE COMMISSION SHOULD ORDER THE PARTIES TO**
22 **EXCHANGE TRAFFIC ON A BILL AND KEEP BASIS. DO YOU AGREE?**

1 A. No. Clear Creek believes it is in the best interests of the parties to use reciprocal
2 compensation to avoid future litigation. The parties encountered problems previously
3 when Clear Creek believed the parties were working under a bill and keep mechanism,
4 then Beaver Creek decided to start billing Clear Creek and legal action resulted. For this
5 reason, Clear Creek believes the parties should use reciprocal compensation. Further,
6 Beaver Creek has already stipulated to reciprocal compensation in previous filings in this
7 case.

8
9 **V. QWEST'S COMMENTS**

10 **Q. QWEST CORPORATION SUBMITTED AMICUS COMMENTS AND**
11 **CLARIFICATION REGARDING THE PARTIES' RESPONSES TO THE ALJ'S**
12 **BENCH REQUESTS. DO YOU DISAGREE WITH ANY OF THE COMMENTS**
13 **OR CLARIFICATIONS MADE BY QWEST CORPORATION?**

14 A. No. Clear Creek agrees with all comments and clarifications made by Qwest Corporation.
15

16 **VI. CONCLUSION**

17 **Q. WHAT IS YOUR RECOMMENDATION TO THE OREGON PUBLIC UTILITY**
18 **COMMISSION?**

19 A. For the reasons stated above and in my Direct Testimony, I ask the Oregon Public Utility
20 Commission to require Beaver Creek to interconnect with Clear Creek on a direct basis
21 and find that the language suggested for the Interconnection Agreement be adopted.
22

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2 A. Yes.

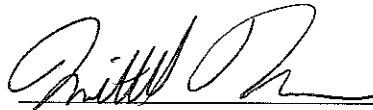
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4 STATE OF OREGON)
) ss.
5 County of Marion)

6 I, Mitchell Moore, being first duly sworn, depose and say:

7 The foregoing Reply Testimony is true as I verily believe.

8

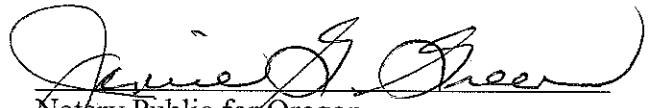


Mitchell Moore

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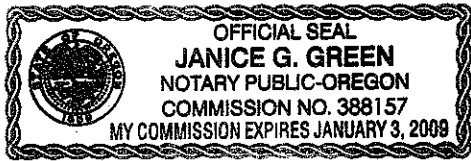
10 Signed and sworn to before me this 31st day of August, 2007.

11



Notary Public for Oregon

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