

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of:)
)
Joint petition by TDS Telecom d/b/a TDS)
Telecom/Quincy Telephone; ALLTEL)
Florida, Inc.; Northeast Florida Telephone)
Company d/b/a NEFCOM; GTC, Inc. d/b/a)
GT Com; Smart City Telecommunications,)
LLC d/b/a Smart City Telecom; ITS)
Telecommunications Systems, Inc.; and) **Docket No. 050119-TP**
Frontier Communications of the South, LLC)
["Joint Petitioners"] objecting to and)
requesting suspension and cancellation of)
proposed transit traffic service tariff filed by)
BellSouth Telecommunications, Inc.)
)
Petition and complaint for suspension and) **Docket No. 050125-TP**
cancellation of Transit Traffic Service Tariff)
No. FL2004-284 filed by BellSouth)
Telecommunications, Inc., by AT&T)
Communications of the Southern States,) **Filed: January 30, 2006**
LLC.)

**Rebuttal Testimony and Exhibit
Of
Dena J. Bishop
On Behalf of
MetroPCS California/Florida, Inc.**

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **REBUTTAL TESTIMONY AND EXHIBIT OF**

3 **DENA J. BISHOP**

4 **DOCKET NOS. 050119-TP AND 050125-TP**

5 **Q. Please state your name and address.**

6 A. My name is Dena J. Bishop. My business address is 8144 Walnut Hill Lane, Suite 800,
7 Dallas, Texas 75231.

8 **Q. By whom are you employed and in what capacity?**

9 A. I am Director of Intercarrier Finance for MetroPCS, Inc. I am responsible for all business
10 and policy matters related to intercarrier billing for MetroPCS, Inc. and its subsidiaries.

11 **Q. Please describe your education and your background in the telecommunications**
12 **industry.**

13 A. In December 1993 I graduated from The University of Texas at Austin with a Bachelor of
14 Business Administration and Masters in Professional Accounting. In May 1991, I began
15 working in the telecommunications industry. Over the course of the last 14 years, I have
16 held positions related to intercarrier billing and bill verification at various long distance
17 and competitive local companies, including a software company that specialized in the
18 audit of intercarrier invoices for long distance, local, and wireless carriers.

19 **Q. On whose behalf are you submitting this Rebuttal Testimony?**

20 A. I am submitting this Rebuttal Testimony on behalf of MetroPCS California/Florida, Inc.
21 ("MetroPCS").

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to respond to portions of the “Direct Testimony of
3 Kenneth Ray McCallen on Behalf of BellSouth Telecommunications, Inc.”

4 **ISSUE 11A: WHAT IS THE APPROPRIATE RATE FOR TRANSIT SERVICE?**

5 **Q. Have you reviewed the testimony of BellSouth’s witness, Mr. Kenneth Ray
6 McCallen?**

7 A. Yes, I have.

8 **Q. What does Mr. McCallen identify as the basis for BellSouth’s proposed transit rate
9 of \$0.003 per minute?**

10 A. At page 11, lines 13-15, he states that “BellSouth’s tariffed transit rate is comparable to
11 rates in recently negotiated agreements between BellSouth and CLECs and between
12 BellSouth and CMRS carriers for transit services.” He again says essentially the same
13 thing at page 19, lines 1-5.

14 **Q. Does Mr. McCallen identify the CLECs who he says have agreed to “comparable”
15 rates and the rates to which they have agreed?**

16 A. Yes, in Exhibit KRM-2, Mr. McCallen lists 205 CLECs who he says agreed to transit
17 rates ranging from \$0.0023 to \$0.006 per MOU in interconnection agreements that
18 became effective between June 2000 and December 2005.

19 **Q. Does the fact that over 200 CLECs have agreed to pay transit rates of \$0.025 or
20 more per minute indicate to you that BellSouth’s proposed rate is reasonable?**

21 A. No, it does not.

1 **Q. Why is that?**

2 A. I would be surprised if any of those CLECs originate enough transit traffic to care about
3 BellSouth's transit rate, much less justify the cost of arbitrating or litigating the transit
4 rate.

5 **Q. Do you know how much transit traffic each of those CLECs originates in Florida?**

6 A. As of the date that my prefiled testimony was prepared, I do not. MetroPCS has asked
7 BellSouth for this information in discovery, but BellSouth's response was not due before
8 my rebuttal testimony needed to be filed. BellSouth's response to Item 1 of the Small
9 LECs' First Interrogatories, however, indicates that, *at most*, eighteen of those CLECs
10 (two of which are BellSouth affiliates) originated *any* transit traffic that was transited by
11 BellSouth to Florida independent incumbent local exchange carriers ("ILECs") in
12 November 2005. The response also indicates that about twenty-one CLECs who
13 BellSouth does *not* claim have agreed to such transit rates originated transit traffic to
14 Florida independent ILECs in November.

15 **Q. Do you have any other information that indicates how much transit traffic CLECs
16 originate?**

17 A. Yes. In the Georgia Public Service Commission docket concerning BellSouth's transit
18 service BellSouth has been filing reports showing the volume of transit traffic that it
19 switches and transports between CLECs and independent ILECs in Georgia. In
20 November, the last month for which BellSouth had filed information when my testimony
21 was prepared, MetroPCS originated (1) nearly [REDACTED] as much traffic that

1 BellSouth transited to independent ILECs in Georgia as BellSouth reported for all
2 Georgia CLECs combined, (2) more than [REDACTED] of the Georgia CLECs combined,
3 (3) more than [REDACTED] as much as any CLEC but one, and (4) [REDACTED] as much as that
4 one. This clearly indicates that most CLECs originate far less transit traffic than
5 MetroPCS does. The fact that over 200 CLECs may have agreed to a transit rate does not
6 prove anything concerning the reasonableness of that rate when most of them either
7 originate no transit traffic at all or originate only trivial amounts of transit traffic
8 compared to MetroPCS.

9 **Q. But doesn't Mr. McCallen indicate in Exhibit KRM-3 that 17 CMRS carriers have**
10 **also agreed to comparable transit rates?**

11 A. Yes, he does, but that list is not persuasive, either. First, of the CMRS carriers listed by
12 Mr. McCallen, MetroPCS, Verizon Wireless, Sprint Nextel and T-Mobile are all parties
13 in this docket, and all of those but Verizon directly oppose BellSouth's proposed transit
14 rate. Although Verizon Wireless is not directly challenging BellSouth's proposed transit
15 rate, it is controlled by Verizon Communications, which has the same interest as
16 BellSouth in being permitted to charge excessive transit rates. Cingular is BellSouth's
17 affiliated CMRS carrier and cannot be expected to challenge BellSouth's proposed rates.
18 AT&T Wireless, Nextel, NPCR, Tritel and GTE Wireless are all now part of Verizon,
19 Sprint Nextel or Cingular, companies that I have already discussed above. Although
20 AllTel Communications is not a party to this docket, its ILEC affiliate is, and the Georgia
21 AllTel ILECs are challenging a proposed Georgia transit rate of \$0.025 per MOU.¹

¹ See Georgia Public Service Commission Docket No. 16772-U.

1 Commnet of Florida is a very small, wholesale-only CMRS carrier. Its financial
2 statements indicate that its total *national* annual operating expenses (including
3 depreciation and amortization) are less than [REDACTED] MetroPCS's annual Florida transit
4 bill from BellSouth.² According to their web sites, Cricket Communications³ and United
5 States Cellular⁴ have no operations in Florida. Cellular South's web site⁵ indicates that its
6 Florida operations are limited to a small portion of the western panhandle. The FCC's
7 online database⁶ does not identify any CMRS carrier with the word "action" in its name.

8 The only Florida CMRS carriers that are not challenging BellSouth's proposed transit
9 rate in Florida, Georgia or both, either directly or through an affiliate, are Verizon,
10 Cingular, Commnet and Cellular South. The fact that Verizon and Cingular, whose parent
11 companies have the same interest as BellSouth in being permitted to charge excessive
12 transit rates, and two very small CMRS carriers are not challenging BellSouth's proposed
13 rate hardly indicates the wireless industry's endorsement of BellSouth's transit rate.

14 **Q. Mr. McCallen states that "BellSouth is not required to provide a transit function"**
15 **(page 6, lines 7-8 and page 17, line 4) and that the availability of transit service is the**
16 **result of "BellSouth's business decision" (page 7, line 8). What is your response?**

17 **A.** I disagree. The intended implication seems to be that BellSouth is free to price transit
18 service as it pleases or withdraw it altogether. Although I am not a lawyer, I believe that

² See <http://www.sec.gov/Archives/edgar/data/879585/000119312505225621/dex994/htm> at page 5.

³ See <https://www.mycricket.com/stores/>.

⁴ See http://www.uscc.com/uscellular/SilverStream/Pages/r_city.html?call=2.

⁵ See http://www.cellularsouth.com/plans/coverage_fl.jsp.

⁶ See <http://gullfoss2.fcc.gov/cib/form499/499a.cfm>.

1 the FCC has indicated that transit service is governed by Section 251(c) of the
2 Telecommunications Act.

3 **Q. Please explain.**

4 A. In October 2002, the FCC issued a declaratory ruling, in response to a petition by Qwest,
5 concerning the scope of interconnection agreements that must be filed with state
6 commissions under Section 252(a)(1) of the Telecommunications Act.⁷ In that
7 declaratory ruling, the FCC held that an agreement entered into by an incumbent LEC
8 “that creates an ongoing obligation pertaining to resale, number portability, dialing parity,
9 access to rights-of-way, reciprocal compensation, interconnection, unbundled network
10 elements, or collocation is an interconnection agreement that must be filed ...”⁸ More
11 specifically, the FCC ruled that “*only* those agreements that contain an ongoing
12 obligation *relating to section 251(b) or (c)* must be filed under 252(a)(1).”⁹ Other
13 agreements need not be filed.¹⁰

14 Subsequently, the FCC issued a Notice of Apparent Liability proposing to fine Qwest for
15 failing to file certain interconnection agreements with the Minnesota and Arizona
16 commissions in a timely fashion.¹¹ Qwest filed the Minnesota agreements on March 25

⁷ *Qwest Communications International Inc. Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*, Memorandum Opinion and Order, 17 FCC Rcd. 19337 (FCC 02-276) (released October 4, 2002) (“*Qwest Declaratory Ruling*”).

⁸ *Id.* at ¶ 8 (emphasis omitted).

⁹ *Id.* n.26 (emphasis added). *See also*, *id.* at ¶ 12 (“[A] settlement agreement that contains an ongoing obligation relating to section 251(b) or (c) must be filed under section 252(a)(1).”)

¹⁰ “We therefore disagree with the parties that advocate the filing of *all* agreements between an incumbent LEC and a requesting carrier.” *Id.* at ¶ 8 n.26 (emphasis in original)

¹¹ *In the Matter of Qwest Corporation Apparent Liability for Forfeiture*, Notice of Apparent Liability for Forfeiture, File No. EB-03-IH-0263, 19 FCC Rcd. 5169 (FCC 04-57) (released March 12, 2004) (“*Qwest NAL*”).

1 and 26, 2003.¹² The Minnesota Department of Commerce and Minnesota Public Utilities
2 Commission online eDocket system¹³ has copies of thirty interconnection agreements
3 filed by Qwest on those dates, one of which is attached hereto as Exhibit ___DJB-1. The
4 only matters addressed by this agreement are transit services, the exchange of call detail
5 records for transit traffic, and the confidentiality of those records. As noted by the FCC,
6 the Minnesota PUC found that all of the agreements filed by Qwest on those dates were
7 interconnection agreements in whole or in part.¹⁴ The FCC agreed, rejecting Qwest's
8 arguments that the filed agreements were not interconnection agreements covered by the
9 *Qwest Declaratory Ruling*.¹⁵

10 While, again, I am not a lawyer, it seems clear to me that nothing in Section 251(b) of the
11 Telecommunications Act relates to the provision of a transit service. Paragraph (1)
12 requires LECs to permit resale of their services. Paragraph 2 requires LECs to provide
13 number portability. Paragraph 3 requires them to provide dialing parity. Paragraph 4
14 requires them to provide access to their poles, ducts, conduits and rights-of-way. And
15 Paragraph 5 requires LECs "to establish reciprocal compensation arrangements for the
16 transport and termination of telecommunications." Thus, when the FCC proposed to fine
17 Qwest for failing to file an agreement concerning transit service, a requirement that the
18 FCC previously had ruled applies only to agreements containing ongoing obligations

¹² *Id.* at ¶ 15.

¹³ See <http://www.edockets.state.mn.us/>.

¹⁴ *Qwest NAL* at ¶ 15.

¹⁵ See generally, *Qwest NAL* at ¶¶ 25-41.

1 under 251(b) and (c), the FCC necessarily ruled that the transit service addressed in
2 Exhibit ___DJB-1 is governed by Section 251(c).

3 **Q. In light of that ruling, what do you believe is the appropriate rate for BellSouth's**
4 **transit service?**

5 A. It is my understanding that the FCC has held that TELRIC pricing is required for
6 interconnection services that are governed by Section 251(c) of the Telecommunications
7 Act. I thus agree with Mr. Billy Pruitt, the witness for Sprint Nextel and T-Mobile, that
8 BellSouth's transit service must be priced in accordance with TELRIC and must only
9 include the applicable rate elements for the functions performed by BellSouth when it
10 provides a transiting function.

11 **Q. Does that conclude your rebuttal testimony?**

12 A. Yes, it does.

①

Qwest Corporation
Law Department
200 South Fifth Street, Room 395
Minneapolis, MN 55402
(612) 672-8905-Phone
(612) 672-8911-Fax

Jason D. Topp
Attorney



RECEIVED

MAR 25 2003

March 25, 2003

MN PUBLIC UTILITIES COMMISSION

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

P5446,421/IC-03-429

Re: In the Matter of the Application of Qwest Corporation for Approval of the Transit Record Exchange Agreement to Co-Carriers (Wireline - Transit Qwest - CLEC) and Transit Record Exchange Agreement to Co-Carriers (WSP - Transit Qwest - CLEC) as Amendments to the Interconnection Agreement with Otter Tail Telecom, LLC

Dear Dr. Haar:

Pursuant to Section 252(e)(2) of the Telecommunications Act of 1996, Qwest hereby submits four copies of the negotiated Transit Record Exchange Agreement to Co-Carriers (Wireline - Transit Qwest - CLEC) dated January 8, 2001 and Transit Record Exchange Agreement to Co-Carriers (WSP - Transit Qwest - CLEC) dated January 8, 2001, ("Agreements") between Qwest Corporation ("Qwest") and Otter Tail Telecom, LLC ("Otter Tail") as Amendments for filing with and approval by the Minnesota Public Utilities Commission ("Commission"). Qwest seeks approval of the bracketed language in the enclosed Agreements. The Commission approved the underlying Interconnection Agreement between Qwest and Otter Tail on December 22, 1997, in Docket No. P5446, 421/M-97-1463.

Qwest provided these Agreements to the Minnesota Department of Commerce on September 12, 2001, as a part of the DOC's investigation into Qwest's interconnection agreement filing practices. These Agreements were among the approximately 125 agreements that the DOC has reviewed to consider whether any such agreement is within the Section 252(a) filing requirement. These Agreements are not ones that the DOC identified in its Complaint filed on February 14, 2002 (and as later amended) as within the filing requirement. Qwest has asked the DOC to identify any additional agreements or provisions it believes needs to be filed in Minnesota, and thus far the DOC has not identified any additional agreements beyond those contained in its Complaint.

Dr. Burl W. Haar
Page 2
March 25, 2003

These Agreements are part of several filings Qwest is making today under Section 252(e). The background for these filings is that Qwest has reviewed all of the previously unfiled agreements involving CLECs certified in Minnesota, and Qwest applied a very broad standard to determine whether any provision has a relationship to a service provided under Section 251(b) or (c). Qwest then evaluated whether provisions meeting this broad standard are still effective today and have not been terminated or superseded by agreement, commission order, or otherwise. The Agreements attached to this letter for filing are some of those agreements.

Qwest understands that the Commission in Docket No. P-421/C-02-197 is determining the treatment of the agreements identified in the Complaint, many of which have been terminated or superseded. The filings made today are supplemental to those proceedings.

Thus, today Qwest is filing these Agreements under Section 252, even though the DOC did not identify any of their provisions in its Complaint. This reflects the very broad standard that Qwest is applying to these past agreements in an effort to remove any questions about whether Qwest in the future is providing any Section 251 services that are not available to every other CLEC under the parameters of Section 251(i). In other words, these remedial filings demonstrate Qwest's application of an even broader standard than the one applied by the DOC in its Complaint.

Qwest is petitioning the Commission to approve the provisions identified in the attached Agreements such that, upon approval, they are formally available to other CLECs under Section 252(i). For the Commission's benefit, Qwest has bracketed those terms and provisions in the Agreements which Qwest believes relate to Section 251(b) or (c) services, and have not been terminated or superseded by agreement, Commission order, or otherwise, and are thus subject to filing and approval under Section 252.

Consistent with the FCC's Order of October 4, 2002, which articulated Section 252's filing standard, Qwest is not filing routine day-to-day paperwork, settlements of past disputes, stipulations or agreements executed in connection with federal bankruptcy proceedings, or orders for specific services. Qwest also has not filed contracts with CLECs arising out of bankruptcy proceedings, because such contracts relate to pre- and post-bankruptcy petition claims, adequate assurances agreements, avoidance of service interruptions and the like, and do not change the terms or conditions of the underlying interconnection agreement. In the event that a bankruptcy court finalizes an agreement that does create new obligations under Section 251, that agreement will be filed with the state commissions under Section 252(e).

Dr. Burl W. Haar
Page 3
March 25, 2003

MetroPCS California/Florida, Inc.
Florida Public Service Commission
Docket Nos. 050119-TP/050125-
TP
Exhibit DJB-1

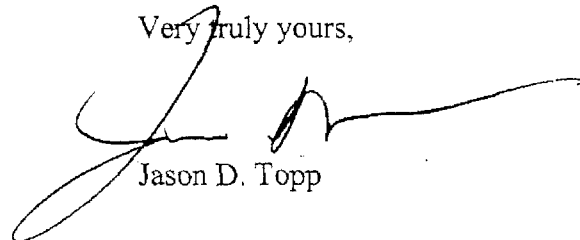
Qwest will be posting the agreements filed today on the website it uses to provide notice to CLECs and announce the immediate availability to other CLECs in Minnesota of the interconnection-related terms and conditions. This will facilitate the ability of CLECs to request terms and conditions, subject to the Commission's decision approving the bracketed portion of the Agreements filed here.

Given the confidentiality provisions contained in some of these agreements and the fact that the CLECs involved may deem the information contained therein confidential, Qwest has redacted those terms, such as confidential settlement amounts relating to settlement of historical disputes between Qwest and the particular CLEC, confidential billing and bank account numbers and facility locations, which relate solely to the specific CLEC and do not relate to Section 251(b) or (c) services.

The enclosed Agreements do not discriminate against non-party carriers. They are consistent with the public interest, convenience, and necessity. They are also consistent with applicable state law requirements, including Commission orders regarding interconnection issues.

Enclosed is a service list for this docket. Please contact me if you have any questions concerning the enclosed. Thank you for your assistance in this matter.

Very truly yours,



Jason D. Topp

JDT/bardm

Enclosures

cc: Service List

**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye	Chair
Gregory Scott	Commissioner
Marshall Johnson	Commissioner
Phyllis Reha	Commissioner
Ellen Gavin	Commissioner

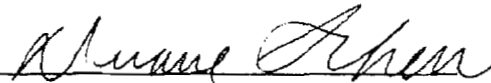
Re: In the Matter of the Application of Qwest Corporation for Approval of the Settlement Agreement, Agreement for CMDS Hosting and Message Distribution for Co-Providers (In-Region with Operator Services), and Addendum to CMDS Hosting and In-Region Message Distribution Agreement for Co-Providers as Amendments to the Interconnection Agreement with Eschelon Telecom, Inc.

AFFIDAVIT OF SERVICE

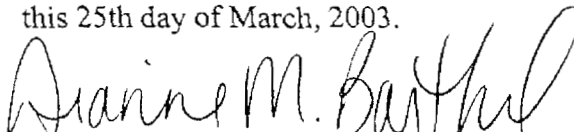
STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Duane Scherr, being first duly sworn, deposes and says:

That on the 25th day of March, 2003, at the City of Minneapolis, State of Minnesota, he served the annexed filing on the party designated therein, by either delivery in person or mailing to them a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at Minneapolis, Minnesota, directed to said address or last known address.


Duane Scherr

Subscribed and sworn to me
this 25th day of March, 2003.


Notary Public



MetroPCS California/Florida, Inc.
Florida Public Service Commission
Docket Nos. 050119-TP/050125-TP
Exhibit DJB-1

Qwest Service List

Dr. Burl W. Haar
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Linda Chavez
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101-2198

Jason Topp
Qwest Corporation
200 South Fifth Street, Room 395
Minneapolis, MN 55402

Qwest Corporation
Director - Interconnection Compliance
1801 California Street, Room 2410
Denver, CO 80202-1984

Dave Bickett
Otter Tail Telcom, LLC
100 Main Street
Underwood, MN 56586

Qwest Corporation
Attn: Jim Gallegos
Corporate Counsel, Interconnection
1801 California Street, 38th Floor
Denver, CO 80202

TRANSIT RECORD EXCHANGE AGREEMENT TO CO-CARRIERS
(Wireline - Transit Qwest - CLEC)

This Transit Record Exchange Agreement to Co-Carriers ("Agreement") is made by and between Qwest Corporation ("Qwest"), a Colorado corporation, having its principal place of business at 1801 California Street, Denver, CO 80202, and Otter Tail Telcom, LLC ("CLEC"), a Minnesota Limited Liability Corporation, having its principal place of business at 224 West Lincoln, Fergus Falls, MN 56537.

1. This Agreement is made in order for each party to obtain from the other certain technical and business information related to wireline network usage data under terms that will protect the confidential and proprietary nature of such information. Specifically, Qwest and CLEC will exchange wireline network usage data originated by a wireline Local Exchange Carrier (LEC) where the NXX resides in a wireline LEC switch, and transits Qwest's network. Each party agrees to provide to the other this wireline network usage data when Qwest or CLEC interconnects with a wireline LEC either currently or in the future [Qwest will charge CLEC 5.0025 per record.] The parties understand that this information is carrier protected information under §222 of the Communications Act and shall be used solely for the purposes of billing the wireline LEC. Each party further agrees to provide the other with the information required in Attachment 1 to this Agreement, which is attached hereto and incorporated herein by this reference.

2. As used herein, "Confidential Information" shall mean all information reasonably related to network usage data for all network traffic for all calls originating from CLEC or other Exchange Carrier (EC), which are interconnected by either party and terminated within either parties' network, furnished, in whatever tangible form or medium, or disclosed by one party to the other, which is marked as confidential or proprietary, or, for information which is orally disclosed, the disclosing party indicates to the other at the time of disclosure the confidential or proprietary nature of the information and reduces orally disclosed Confidential Information to writing and provides it to the receiving party within twenty (20) days after such disclosure which is also marked as confidential. All usage information exchanged between the parties on any medium which contains usage information of the minutes of termination of either party or a third party's network, whether marked confidential or not, is considered Confidential Information. Said Confidential information shall be used by the parties for billing purposes only.

3. This Agreement arises out of an Interconnection Agreement between the Parties, in the state of Minnesota, which was approved by the Minnesota Public Utilities Commission ("Commission"). This Agreement shall become effective upon execution by both parties and shall terminate at the same time as the said Interconnection Agreement. Provided, however, either party may terminate this Agreement upon sixty (60) days written notice to the other party. Notwithstanding the termination of this Agreement, each party agrees to treat such Confidential Information as confidential for a period of three (3) years from the date of receipt of same unless otherwise agreed to in writing by both parties. In handling the Confidential Information, each party agrees: (a) not to copy such Confidential information of the other, except for billing purposes, unless specifically authorized; (b) not to make disclosure of any such Confidential Information to anyone except employees and subcontractors of such party to whom disclosure is necessary for the purposes set forth above; and (c) to appropriately notify such employees and subcontractors that the disclosure is made in confidence and shall be kept in confidence in accordance with this Agreement. The obligations set forth herein shall be satisfied by each party through the exercise of at least the same degree of care used to restrict disclosure of its own information of like importance. Notwithstanding the foregoing, disclosure may be made under the circumstances set forth in Section 7 of this Agreement.

4. Each party agrees that in the event permission is granted by the other to copy Confidential Information, or that copying is otherwise permitted hereunder, each such copy shall contain and state the same confidential or proprietary notices or legends, if any, which appear on the original. Nothing herein shall be construed as granting to either party any right or license under any copyrights, inventions, or patents now or hereafter owned or controlled by the other party.

5. The obligations imposed by this Agreement shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed by the receiving party; or (b) is or becomes publicly available through no fault of the receiving party; or (c) is obtained by the receiving party from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; or (d) is disclosed without restriction by the disclosing party; or (e) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.

6. Except for the obligations of use and confidentiality imposed herein, no obligation of any kind is assumed or implied against either party by virtue of the party's meetings or conversations with respect to the subject matter stated above or with respect to whatever Confidential Information is exchanged. Each party further acknowledges that this Agreement and any meetings and communications of the parties relating to the same subject matter, including the exchange of Confidential Information, shall not: (a) constitute an offer, request, or contract with the other to engage in any research, development or other work; (b) constitute an offer, request or contract involving a buyer-seller relationship, joint venture, teaming or partnership relationship between the parties; or (c) impair or restrict either party's right to make, procure or market any products or services, now or in the future, which may be similar to or competitive with those offered by the disclosing party, or which are the subject matter of this Agreement, so long as that party's obligations of confidentiality under this Agreement are not breached. The parties expressly agree that any money, expenses or losses expended or incurred by each party in preparation for, or as a result of this Agreement or the parties' meetings and communications, is at each party's sole cost and expense.

7. Without the prior consent of the other party, neither party shall disclose to any third person the existence or purpose of this Agreement, the terms or conditions hereof, or the fact that discussions are taking place and that Confidential Information is being shared, except as may be required by law, regulation or court or agency order or demand, and then only after prompt prior notification to the other party of such required disclosure. The parties also agree that neither party shall use any trade name, service mark, or trademark of the other or refer to the other party in any promotional activity or material without first obtaining the prior written consent of the other party.

8. Neither Party shall assign, sublet, or transfer any interest in this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, that Qwest may assign and transfer this Agreement to any parent, subsidiary, successor, affiliated company or other business entity without the prior written consent of CLEC.

9. Any claim, controversy or dispute between the Parties shall be resolved by binding arbitration in accordance with the Federal Arbitration Act, 9 U.S.C. 1-16, not state law. The arbitration shall be conducted by a retired judge or a practicing attorney under the rules of the American Arbitration Association. The arbitration shall be conducted in Denver, Colorado. The arbitrator's decision shall be final and may be entered in any court with jurisdiction. Each Party shall be responsible for its own costs.

10. This Agreement, together with any and all exhibits incorporated herein, constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. No provision of this Agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is made in writing and signed by both parties. This Agreement supersedes all previous agreements between the parties relating to the subject matter hereof.

11. Any notice to be given hereunder by either party to the other, shall be in writing and shall be deemed given when sent either by mail to the address listed below or by facsimile with a confirmation copy sent by mail.

12. Notwithstanding anything to the contrary, CLEC may not make any disclosure to any other person or any public announcement regarding this Agreement or any relation between CLEC and Qwest, without Qwest's prior written consent. Qwest shall have the right to terminate this Agreement and any other agreements between the Parties if CLEC violates this provision.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to sign this Agreement as of the date first stated above.

Qwest Corporation

Lorelei Johnson
Authorized Signature

Lorelei Johnson
Printed Name

Account Manager
Title

1/5/01
Date

Otter Tail Telecom, LLC

Daryl Ecker
Authorized Signature

Daryl Ecker
Printed Name

President
Title

01/02/01
Date

Address for Notices:

150 South 5th Street, #510
Minneapolis, MN 55402

224 West Lincoln
Fergus Falls, MN 56537

ATTACHMENT 1
(Wireline - Transit Qwest - CLEC)

DATA REQUIRED BY THE PARTIES TO PROCESS USAGE DATA:

Operating Company Number (OCN)

State

8606

MN

TRANSIT RECORD EXCHANGE AGREEMENT TO CO-CARRIERS
(WSP - transit Qwest - CLEC)

This Transit Record Exchange Agreement to Co-Carriers ("Agreement") is made by and between Qwest Corporation ("Qwest"), a Colorado corporation, having its principal place of business at 1801 California Street, Denver, CO 80202, and Otter Tail Telecom, LLC ("CLEC"), a Minnesota Limited Liability Corporation, having its principal place of business at 224 West Lincoln, Fergus Falls, MN 56537.

1. This Agreement is made in order for each party to obtain from the other certain technical and business information related to wireless network usage data under terms that will protect the confidential and proprietary nature of such information. Specifically, Qwest and CLEC will exchange wireless network usage data originated by a Wireless Service Provider (WSP) where the NXX resides in a WSP switch that functions as a Class 5 end office in the public switched telephone network for local and/or toll traffic, originating from the WSP, interconnected to Qwest or CLEC on a LATA wide basis, and terminated within Qwest's or CLEC's network. Each party agrees to provide to the other this wireless network usage data when Qwest or CLEC interconnects with a WSP either currently or in the future. [Qwest will charge CLEC \$0.0025 per summary record.] The parties understand that this information is carrier protected information under §222 of the Communications Act and shall be used solely for the purposes of billing the WSP. Each party further agrees to provide the other with the information required in Attachment 1 to this Agreement, which is attached hereto and incorporated herein by this reference.

2. As used herein, "Confidential Information" shall mean all information reasonably related to network usage data for all network traffic for all calls originating from WSPs which are interconnected by either party on a LATA wide basis and terminated within either parties' network, furnished, in whatever tangible form or medium, or disclosed by one party to the other, which is marked as confidential or proprietary, or, for information which is orally disclosed, the disclosing party indicates to the other at the time of disclosure the confidential or proprietary nature of the information and reduces orally disclosed Confidential Information to writing and provides it to the receiving party within twenty (20) days after such disclosure which is also marked as confidential. All usage information exchanged between the parties on any medium which contains usage information of the minutes of termination of either party or a third party's network, whether marked confidential or not, is considered Confidential Information. Said Confidential Information shall be used by the parties for billing purposes only.

3. This Agreement arises out of an Interconnection Agreement between the Parties, in the state of Minnesota, which was approved by the Minnesota Public Utilities Commission ("Commission"). This Agreement shall become effective upon execution by both parties and shall terminate at the same time as the said Interconnection Agreement. Provided, however, either party may terminate this Agreement upon sixty (60) days written notice to the other party. Notwithstanding the termination of this Agreement, each party agrees to treat such Confidential Information as confidential for a period of three (3) years from the date of receipt of same unless otherwise agreed to in writing by both parties. In handling the Confidential Information, each party agrees: (a) not to copy such Confidential Information of the other, except for billing purposes, unless specifically authorized; (b) not to make disclosure of any such Confidential Information to anyone except employees and subcontractors of such party to whom disclosure is necessary for the purposes set forth above; and (c) to appropriately notify such employees and subcontractors that the disclosure is made in confidence and shall be kept in confidence in accordance with this Agreement. The obligations set forth herein shall be satisfied by each party through the exercise of at least the same degree of care used to restrict disclosure of its own information of like importance. Notwithstanding the foregoing, disclosure may be made under the circumstances set forth in Section 7 of this Agreement.

4. Each party agrees that in the event permission is granted by the other to copy Confidential Information, or that copying is otherwise permitted hereunder, each such copy shall contain and state the same confidential or proprietary notices or legends, if any, which appear on the original. Nothing herein shall be construed as granting to either party any right or license under any copyrights, inventions, or patents now or hereafter owned or controlled by the other party.

5. The obligations imposed by this Agreement shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed by the receiving party; or (b) is or becomes publicly available through no fault of the receiving party; or (c) is obtained by the receiving party from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; or (d) is disclosed without restriction by the disclosing party; or (e) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.

6. Except for the obligations of use and confidentiality imposed herein, no obligation of any kind is assumed or implied against either party by virtue of the party's meetings or conversations with respect to the subject matter stated above or with respect to whatever Confidential Information is exchanged. Each party further acknowledges that this Agreement and any meetings and communications of the parties relating to the same subject matter, including the exchange of Confidential Information, shall not: (a) constitute an offer, request, or contract with the other to engage in any research, development or other work; (b) constitute an offer, request or contract involving a buyer-seller relationship, joint venture, teaming or partnership relationship between the parties; or (c) impair or restrict either party's right to make, procure or market any products or services, now or in the future, which may be similar to or competitive with those offered by the disclosing party, or which are the subject matter of this Agreement, so long as that party's obligations of confidentiality under this Agreement are not breached. The parties expressly agree that any money, expenses or losses expended or incurred by each party in preparation for, or as a result of this Agreement or the parties' meetings and communications, is at each party's sole cost and expense.

7. Without the prior consent of the other party, neither party shall disclose to any third person the existence or purpose of this Agreement, the terms or conditions hereof, or the fact that discussions are taking place and that Confidential Information is being shared, except as may be required by law, regulation or court or agency order or demand, and then only after prompt prior notification to the other party of such required disclosure. The parties also agree that neither party shall use any trade name, service mark, or trademark of the other or refer to the other party in any promotional activity or material without first obtaining the prior written consent of the other party.

8. Neither Party shall assign, sublet, or transfer any interest in this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, that Qwest may assign and transfer this Agreement to any parent, subsidiary, successor, affiliated company or other business entity without the prior written consent of CLEC.

9. Any claim, controversy or dispute between the Parties shall be resolved by binding arbitration in accordance with the Federal Arbitration Act, 9 U.S.C. 1-16, not state law. The arbitration shall be conducted by a retired judge or a practicing attorney under the rules of the American Arbitration Association. The arbitration shall be conducted in Denver, Colorado. The arbitrator's decision shall be final and may be entered in any court with jurisdiction. Each Party shall be responsible for its own costs.

10. This Agreement, together with any and all exhibits incorporated herein, constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. No provision of this Agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is made in writing and signed by both parties. This Agreement supersedes all previous agreements between the parties relating to the subject matter hereof.

11. Any notice to be given hereunder by either party to the other, shall be in writing and shall be deemed given when sent either by mail to the address listed below or by facsimile with a confirmation copy sent by mail.

12. Notwithstanding anything to the contrary, CLEC may not make any disclosure to any other person or any public announcement regarding this Agreement or any relation between CLEC and Qwest, without Qwest's prior written consent. Qwest shall have the right to terminate this Agreement and any other agreements between the Parties if CLEC violates this provision.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to sign this Agreement as of the date first stated above.

Qwest Corporation

Lorelei Johnson
Authorized Signature

Lorelei Johnson
Printed Name

Account Manager
Title

1/2/01
Date

Otter Tail Telecom, LLC

Daryl Ecker
Authorized Signature

Daryl Ecker
Printed Name

President
Title

01/02/01
Date

Address for Notices:

150 South 5th Street, #510
Minneapolis, MN 55402

224 West Lincoln
Fergus Falls, MN 56537

ATTACHMENT 1
(WSP - transit Qwest - CLEC)

DATA REQUIRED BY THE PARTIES TO PROCESS USAGE DATA:

Operating Company Number (OCN)

State

8666

MN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Rebuttal Testimony and Exhibit of Dena J. Bishop on Behalf of MetroPCS California/Florida, Inc., was served via (*) hand delivery and first class United States mail this 30th day of January, 2006, to the following:

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Linda King
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s/Vicki Gordon Kaufman
Vicki Gordon Kaufman