

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO TELEPHONE ASSOCIATION,  
CITIZENS TELECOMMUNICATIONS  
COMPANY OF IDAHO, CENTURY TEL OF  
IDAHO, CENTURY TEL OF THE GEM  
STATE, POTLATCH TELEPHONE COMPANY  
and ILLUMINET, INC.

CASE NO. QWE-T-02-11

Complainants

vs.

QWEST COMMUNICATIONS, INC.,

Respondent.

Rebuttal Testimony of  
F. Wayne Lafferty  
on Behalf of  
Citizens Telecommunications Company of Idaho  
Electric Lightwave  
Idaho Telephone Association  
Illuminet, Inc.  
October 18, 2002

A. IDENTIFICATION AND QUALIFICATION OF WITNESS

Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

A. My name is F. Wayne Lafferty and my business address is 2940  
Cedar Ridge Drive, McKinney, Texas 75070.

Q. ARE YOU THE SAME F. WAYNE LAFFERTY WHO FILED DIRECT  
TESTIMONY IN THIS PROCEEDING?

A. Yes.

## B. PURPOSE OF REBUTTAL TESTIMONY

Q. MR. LAFFERTY, WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. My rebuttal testimony is intended to provide the response of Citizens Telecommunications Company of Idaho ("CTC-ID"), Electric Lightwave Inc. ("ELI"), the Idaho Telephone Association ("ITA") and Illuminet Inc. ("Illuminet") (collectively known as "Complainants")<sup>1</sup> to several of the issues raised in the testimonies of Qwest witnesses Scott A. McIntyre and Joseph P. Craig. The Qwest testimony has confused the issues in this case to divert the Commission's attention away from the actual concerns raised by the Complainants to issues which Qwest presumably believes are more favorable to its position. My rebuttal testimony will refocus on the Complainants' actual concerns and respond to the inaccuracies introduced by the Qwest witnesses.

## C. SUMMARY

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

A. Unfortunately, Qwest's testimony avoids answering some of the Complainants' critical concerns and instead attempts to shift the focus away from the critical public policy issues at the center of this case. Qwest has turned a simple case about violating public policy into a complicated proceeding about complex network and pricing issues that have little relevance to the complaint. While the Complainants, in its Direct Testimony, raised several critical policy and

interconnection issues for the Commission to address, Qwest's Direct Testimony misdirects the Commission with the false claims that SS7 messages are not part of a call and that certain of the Complainants, through their agent Illuminet (as well as Illuminet itself), have taken advantage of a mythical pricing loophole to avoid paying for SS7 services. In addition, it is possible that the unbundling of SS7 message signaling from intrastate access charges may have produced a revenue windfall for Qwest.

In the instances where the Qwest witnesses have attempted to address the Complainants' concerns, their testimony is inconsistent with existing regulatory policy, industry practices and approved interconnection arrangements.

Qwest's witnesses suggest Qwest can arbitrarily change long-standing state and federal regulatory policies and even the intent of the United States Congress in passing the Telecommunications Act of 1996 ("1996 Act"). However, as the Complainants have testified, SS7 messages are clearly inseparable parts of the underlying end user calls. The compensation for local/EAS calls between Qwest and ILECs has long been handled through a "bill and keep" arrangement uniformly recognized by the Idaho Commission. For local calls between Qwest and CLECs, the transport and termination provisions in the interconnection agreements ("ICAs") approved by this Commission, not an access tariff, applies.

Most of the LEC Complainants have chosen to contract with an agent, such as Illuminet, for SS7 network services. As its agent, Illuminet represents its carrier customers in all

matters regarding SS7, but it is their customers who ultimately pay Qwest's new SS7 charges. Existing compensation mechanisms adequately address the exchange of end-user traffic among LECs including Qwest. In the case of ELI, an ICA is in place to address all network and compensation matters between the two companies. If Qwest believes SS7 charges have not been addressed adequately in this agreement, they are free to request negotiations to enact changes. Qwest has not done so.

The Qwest witnesses introduced the importance of linking cost causation and cost recovery, but then completely failed to identify the true cost causer in many cases. They never addressed the significant shift of cost recovery from Qwest and IXCs to other LECs that, in some cases, are Qwest's direct competitors. The Complainants do not dispute the burden of cost recovery should be borne by the cost causer where possible. However, they do not agree that other LECs should pay for costs created by Qwest or IXC end-user customers that should be recovered through other rates.

In its efforts to divert the Commission's attention away from the simple policy and economic issues raised by the Complainants in this case, the Qwest witnesses have tried to misdirect the Commission's attention by discussing:

- O The complicated structure of Qwest's SS7 network and the alleged distinctions between SS7 messages and end-user calls on the public switched telephone network ("PSTN") instead of the critical SS7 signaling functionality required to deliver products to end-user customers.

- O Incorrectly redefining the cost causer for SS7 messages in-  
stead of the long-standing state and federal public policies,  
statutes and industry practices used in Idaho (and other states)  
to properly match cost recovery with the cost causer.
  - O An alleged pricing loophole in-  
stead of the new subsidies to  
Qwest and its end-user customers as well as IXCs and their  
customers.
  - O The evolution and definition of Access in-  
stead of the  
misapplication of Qwest's Southern Idaho Access Services Catalog.
    - O A misunderstanding of the role of Letters of Authorization  
("LOAs") and Illuminet's standing as a third-party non-common  
carrier (or non-telecommunications carrier) in-  
stead of  
Illuminet's commonly accepted role as a vendor or agent.
- The Commission should focus on the Complainants' issues and  
ignore the Qwest witnesses' attempts to confuse this case.

Q. WHAT ARE THE MAJOR POLICY CONCERNS RAISED BY THE  
COMPLAINANTS?

A. Specifically, the Complainants raised the following four  
public policy issues:

- 1) Should Qwest be allowed to assess SS7 charges on other  
ILECs for the origination and termination of EAS calls  
which have previously been handled on a "bill and keep"  
basis? The same issue would apply to intraMTA calls  
exchanged with CMRS providers.
- 2) Should Qwest be permitted to impose new SS7 message  
signaling charges on the exchange of local calls  
between ELI (and other CLECs) and Qwest without  
following its ICA negotiated with ELI under the rules  
established by the 1996 Telecommunications Act ("1996  
Act")?

- 3) Should Qwest be allowed to charge the terminating LEC SS7 signaling messages required for intraLATA toll calls originated by Qwest?
- 4) Should Qwest be allowed to charge other LECs SS7 message signaling charges required for the origination and termination of long distance calls carried by third-party IXCs that are handled on a meet point billing ("MPB") basis?

The answer to each of these questions is clearly no. The Commission should fully investigate the implications of each of these proposed changes on customers in Idaho. While both Qwest witnesses McIntyre and Craig allege that jurisdictional classifications like "local" and "toll" do not apply to SS7 messages, their testimony is irrelevant as Commission policies, industry practices and ICAs do consider these classifications differently for end-user calls, which inherently include SS7 signaling as a critical component necessary for completing such end-user calls. Absent a specific change in policy by this Commission, Qwest cannot apply the new SS7 charges to local/EAS calls between LECs, intraMTA calls to/from CMRS carriers, intraLATA calls originated by Qwest and third-party IXC carried toll calls.

Q. DOES THE QWEST WITNESSES' TESTIMONY ACCURATELY ADDRESS THESE CONCERNS?

A. No. The testimony of the Qwest witnesses has largely ignored these critical public policy issues and in-stead focused on several technical, and often complex, aspects of network design and pricing. In doing so, Qwest Witness McIntyre incorrectly concludes that this case is about an

alleged pricing loophole and the resulting avoidance of charges. However, no such loophole exists nor was it even raised as an issue by the Complainants. Unfortunately, by attempting to shift the Commission's focus, Qwest has itself introduced unnecessary complexities. However, the bottom line in this case is to what extent this Commission should allow Qwest to change existing regulatory policies and other industry practices in Idaho.

D. SS7 MESSAGES ARE A CRITICAL COMPONENT OF A CALL

Q. QWEST WITNESS MCINTYRE, BEGINNING ON PAGE 14, LINE 12 OF HIS TESTIMONY ALLEGES THE COMPLAINANTS HAVE CONFUSED SS7 MESSAGES AND CALLS. IS HE CORRECT?

A. No. The Qwest Witness is attempting to divert the Commission's attention by introducing irrelevant complicated technical network issues. The Complainants understand the functional role and network requirements of SS7 messages in the process of originating, transporting and terminating an end-user call. Both Mr. McIntyre and Qwest Witness Craig rely on the premise that SS7 messages are totally distinct from end-user calls or traffic. However, the exact opposite is true. A SS7 message is an inseparable component of interoffice calls developed specifically for completing such end-user calls. SS7 is a unique technology, but a critical function in the set up, delivery and tear down of an end-user call. Qwest is incorrectly applying the new SS7 charges as though the SS7 message has no relationship to the underlying end-user call.

Q. WOULD THE EXISTENCE OF A PHYSICAL SS7 NETWORK SEPARATE FROM

THE VOICE/DATA NETWORK HAVE ANY BEARING ON THE FUNCTIONALITY OF THE SS7 MESSAGE IN THE END-USER CALL PROCESS?

A. No. A separate SS7 network is not the issue. This case addresses the proper application of regulatory policies in determining which party(s) should bear the costs of SS7 messages. The role of the SS7 messages in the end-user call origination process is no different than the role of dial tone or the digits dialed, two components of the call process mentioned by Qwest Witness Craig on pages 5 and 6 of his testimony. All of these functions are critical components of the end-user call. Without all of these components working together, including SS7 messages, most end-user calls would not be completed.

Q. BEGINNING ON PAGE 4, LINE 19 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE MAKES A DISTINCTION BETWEEN ACCESSING AND UTILIZING QWEST'S SS7 NETWORK. ARE BOTH OF THESE FUNCTIONS REQUIRED FOR MOST END-USER CALLS TO BE COMPLETED?

A. Yes. The carrier (and its customer) originating a call creates the need to both access and utilize the SS7 network. Both of these functions must occur for most end-user calls to be completed.

Q. BEGINNING ON PAGE 5, LINE 23 OF HIS TESTIMONY, QWEST WITNESS CRAIG TALKS ABOUT THE ROLE OF SS7 MESSAGES IN THE "OFF HOOK" AND "ON HOOK" ACTIONS. COULD YOU PLEASE COMMENT ON THIS RELATIONSHIP?

A. Yes. From both a customer and network standpoint, the physical action of taking the phone "off hook" begins a call and placing the phone "on hook" ends a call. These are also

actions that trigger the SS7 messages that establish, route and disconnect a circuit for an end-user call. Without the SS7 message the end-user call would not occur. Qwest Witness McIntyre confirms the linkage when he states:

"Signaling System 7 is an out-of-band (separate) signaling network that uses separate switches and network connections to perform the signaling functions associated with placing telephone calls."2 (emphasis added)

Qwest Witness Craig also addresses this linkage:

"...the originating customer picks up the phone and dials the telephone number of the person they want to talk to, or the terminating customer. The originating end office switch sends an Initial Address Message ("IAM") to its local Signaling Transport Point ("STP") and reserves the voice trunk to be used for the call. This message identifies to the STP the destination of the message. The STP then routes the IAM to the appropriate destination or the terminating end office. Once the terminating end office switch receives the IAM it reserves the same trunk and the terminating line is checked to establish its availability. If the line is available the switch will establish power ringing to the terminating customer's line, or rings the phone."3 (emphasis added)

Though SS7 messages may travel over a separate physical network, as functions in the customer's call process, the SS7 message is inseparable from the call itself.

Q. HAS THE FCC ADDRESSED THE CLASSIFICATION OF SS7 INVESTMENT AND COSTS?

A. Yes. The FCC determined that SS7 was a "general network upgrade", not a separate network.<sup>4</sup> Therefore, under the FCC's Part 32 accounting rules, SS7 investment and expenses are booked to the same accounts used for other network components. In addition, as discussed later, FCC rules allocate these expenses between the interstate and

intrastate jurisdictions in the same manner as other aspects of the network.

Q. WHEN ESTABLISHING RATES, HAS THE IDAHO COMMISSION ESTABLISHED SEPARATE COST ALLOCATION PROCESSES FOR SS7 COSTS?

A. No. The SS7 costs allocated to the intrastate jurisdiction have been included with other network costs for pricing purposes.

Q. DOES QWEST SEPARATE THE SS7 MESSAGE FROM THE END-USER CALL IN ITS DESIGN AND PRICING OF BASIC LOCAL SERVICES?

A. No. The end-user call and the SS7 message are bundled. Qwest's end-user customers do not order local service and SS7 messages separately. The customer originating an interoffice local call creates both the call and the associated SS7 messages required to complete the call. Qwest charges the cost causer, its end-user customer, a single rate for the complete local call including the SS7 message.

Q. DOES THE ELI - QWEST ICA ADDRESS THE SIGNALING REQUIREMENTS FOR LOCAL INTERCONNECTION TRUNKS?

A. Yes. Where possible the trunks used for transport and termination by both parties will be equipped with SS7. Section (C) 2.2.8.5 of the ICA includes the following:

The Parties will provide Common Channel Signaling (CCS) to one another in conjunction with all LIS trunk circuits, except as provided below.

The Parties agree that an all SS7 network is beneficial to end users and Co-Providers and therefore will provision all trunking using

SS7/CCS capabilities. (emphasis added)

The ICA clearly indicates that SS7 will be provided as part of the standard terms of the interconnection arrangement for the transport and termination facilities. Therefore, SS7 is clearly considered an inseparable part of the traffic on the interconnection trunks.

E. PUBLIC POLICY HAS ESTABLISHED THE PROPER LINKAGE  
BETWEEN COST RECOVERY AND COST CAUSATION

Q. QWEST WITNESS MCINTYRE, ON PAGE 6, LINES 10-12 OF HIS TESTIMONY, CLAIMS THAT "QWEST ABIDED BY ALL COMMISSION RULES AND REGULATIONS." IS HE CORRECT?

A. Not really. Mr. McIntyre has largely ignored the actual policy issues the Complainants raised and focused instead on Qwest's development of unbundled SS7 rates which are consistent between the interstate and state jurisdictions. While the Complainants have not taken a position on the rate consistency issue, as Mr. McIntyre himself correctly points out on page 3, line 4 of his testimony, this complaint is really about Qwest's "application of the rates." It is Qwest's misapplication of the SS7 rates resulting in improper billing of SS7 charges that is in violation of Commission rules and other public policies. In many cases Qwest is incorrectly charging LECs for SS7 costs that should already have been recovered in other rates.

Q. DOES MR. MCINTYRE'S TESTIMONY ON PAGE 22, LINES 9-17 ACCURATELY REFLECT THE FCC'S INTENT REGARDING UNBUNDLING OF SS7 CHARGES FROM SWITCHED ACCESS RATES?

A. No. Mr. McIntyre has selectively chosen parts of the FCC's

order approving Qwest's (then US West's) tariff filing. However, he has ignored the explicit directions regarding SS7 unbundling provided by the FCC in the generic access reform order. In the generic order, the FCC specifically intended that the unbundled SS7 per call charges be "assessed on IXCs for all calls handed off to the IXC's point of presence (POP)."<sup>5</sup> The FCC also made it clear that ILECs doing such unbundling could only do so after preparing their measurement and billing systems to produce accurate and accountable bills.<sup>6</sup> Mr. McIntyre is correct that the FCC was addressing the problems associated with recovering SS7 costs on a per minute basis. However, it is clear that the FCC did not intend for Qwest to assess the unbundled charges on other LECs as Qwest has now done in Idaho.

Q. ON PAGE 5, LINES 12-14 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE INDICATES THAT QWEST HAS MADE SYSTEMS INVESTMENTS TO ALLOW IT TO ASSESS SIGNALING COSTS BASED ON A CUSTOMER'S ACTUAL USAGE. HAS QWEST FULLY MET THE FCC'S REQUIREMENTS FOR SYSTEM MODIFICATIONS?

A. No. In response to Complainant's Request No. 042, Qwest stated as follows:

The measurement equipment purchased by Qwest from Agilent Technologies is technically capable of distinguishing between long distance traffic apart from local, EAS and/or CMRS intraLATA traffic. However, the billing methodology and system programming Qwest implemented using this equipment does not retain and process all the required fields to determine the jurisdiction of each Initial Address Message ("IAM") based on the associated call. In designing the billing methodology and system programming, this functionality could not be accommodated within a reasonable timeframe and budget..

Since regulatory policies, ICAs and other industry arrangements require Qwest (and other ILECs) to treat the end-user traffic (including SS7 messages) differently depending on the jurisdiction of the underlying call, it does not appear Qwest's systems and processes have been modified as directed by the FCC.

Q. BEGINNING ON PAGE 23, LINE 14 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE INDICATES THAT THE COMPLAINANTS MAINTAIN THAT SIGNALING CHARGES SHOULD APPLY ONLY TO "ORIGINATING INTRASTATE TOLL TRAFFIC." DO YOU AGREE?

A. No. Qwest is distorting the Complainant's position. The Complainants' position, consistent with existing regulatory policies, statutes and industry practices, is that a LEC should only be responsible for paying SS7 message signaling charges for intraLATA toll calls originated by the LEC and terminated to Qwest. However, Qwest is free to assess SS7 message signaling charges on other cost causers such as IXCs or Qwest customers, subject to Commission approval and the terms of its approved ICAs.

Q. WHO ULTIMATELY PAYS FOR CALLS?

A. End-user customers of LECs, CMRS providers or IXCs are the real payers (and cost causers). To ensure end-user rates (both local and toll) remain reasonable, the Commission should ensure that all costs involved in the call process, including SS7 charges, are assessed in accordance with Commission policies on the carrier (and its customer) that creates the call .

Q. ON PAGE 31, LINES 21-22 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE CLAIMS THAT QWEST'S NEW SS7 CHARGES "PROVIDE A FAIR AND EQUITABLE MECHANISM FOR COST RECOVERY." DO YOU AGREE?

A. Not really. It appears Mr. McIntyre is focusing on the level and flat rate design of the charges in-stead of the misapplication of the rates. Where possible, prices should be set to recover the costs of a service (or any element of a service) from the actual cost causer. The Complainants do not disagree with the concept of per message charges for SS7 messages. However, in many cases Qwest's misapplication of the SS7 rates does not match the cost recovery with the cost causer. The cost causer for a specific telephone call is the carrier originating the call (and its customer).

Q. IS THERE A DISTINCTION BETWEEN THE COST CAUSER FOR INTER-COMPANY COMPENSATION AND THE COST CAUSER FOR RETAIL LEC SERVICES?

A. Yes. The end-user customer is the cost causer from the standpoint of the LEC, IXC or CMRS provider selling retail services to the end-user customer. Retail services like basic local service, calling features and toll have underlying costs that include the operations of the carrier serving the end-user customer plus any costs paid by such carrier to other telecommunications providers for use of other providers' networks. For inter-company compensation purposes, the LEC, IXC or CMRS provider serving the end-user customer who places a call which creates costs for another carrier is the cost causer in the eyes of that other carrier.

Q. IN THE CASE OF LOCAL/EAS CALLS, WHO IS THE COST CAUSER FOR SS7 MESSAGES?

A. The LEC whose end-user customer makes the call. The rates paid by the end-user customer to Qwest, or any other LEC and not a competing carrier should cover this expense.

Q. QWEST WITNESS MCINTYRE ALLEGES BEGINNING ON PAGE 9, LINE 20 OF HIS TESTIMONY, THAT THE EAS REGIONS IN IDAHO ARE NOT IMPACTED BY THE NEW SS7 CHARGES. DO YOU AGREE?

A. No. Mr. McIntyre is again avoiding one of the major issues in this case. This Commission has worked with the industry to implement EAS regions to expand the local calling options for the residents and businesses in Idaho. One of the underlying premises of the EAS regions was the ability of ILECs to terminate calls without incurring any charges. Qwest's misapplication of its SS7 charges to the origination and termination of EAS calls by other ILECs sabotages the Commission's efforts. When the Commission established the EAS regions, it focused on the ability of customers to make local calls without incurring toll charges and the ability of the individual ILECs to originate and terminate the calls without incurring any additional charges. Since few EAS calls would be completed without the underlying SS7 messages, SS7 messages are a critical component of EAS calls. By imposing SS7 message charges on ILECs directly or via their third-party SS7 network providers, Qwest has imposed fees on EAS calls.

Q. IN THE CASE OF QWEST ORIGINATED INTRALATA TOLL CALLS TERMINATED TO OTHER LECS, WHO IS THE COST CAUSER FOR SS7

MESSAGES?

A. Qwest. Since its end-user toll customer places the call, Qwest (or its customer) is the cost causer. The terminating carrier, either directly or via its third party SS7 network provider creates no cost and should not be assessed any SS7 signaling charges.

Q. HAVE THE APPROVED TARIFFS FOR THE ORIGINATION AND TERMINATION OF LEC CARRIED INTRALATA TOLL CALLS HISTORICALLY IMPOSED CHARGES ON THE TERMINATING LEC?

A. No. Until now, the originating LEC has paid access charges to the terminating LEC, but has never assessed any access charges on the terminating carrier. Thus, in the case of Qwest originated intraLATA end-user calls terminated to another LEC, the terminating LEC, not Qwest, would be the only carrier entitled to compensation for the call. This process ensures the cost recovery for terminating the call, including any costs associated with SS7, is assessed on the real cost causer, the originating carrier.

Q. IN THE CASE OF TOLL CALLS CARRIED BY THIRD-PARTY IXCs, WHO IS THE COST CAUSER?

A. The IXC (or its customer) who initiates the toll call. The originating and terminating LECs (and their third-party SS7 network providers) create no cost and should not be assessed any charges for such calls. The IXC's customer creates the toll call and the associated SS7 messages and pays a toll rate to the IXC, from which the IXC pays its costs to complete the toll call.

Q. HAVE ACCESS CHARGES EVER BEEN IMPOSED ON THE ORIGINATING OR TERMINATING LEC FOR TOLL CALLS ORIGINATED AND TERMINATED BY THIRD-PARTY IXCS AS QWEST IS NOW DOING?

A. No. LECs (including Qwest) have always applied rates from their access tariffs to the IXC carrying the call. Industry standard meet point billing ("MPB") arrangements allow all LECs involved in the origination and termination of these calls to be compensated from their own access tariffs. Since the IXC (and its customer) was the party causing the costs associated with originating and terminating toll calls, this process made economic sense. Qwest's misapplication of SS7 charges has now incorrectly made the originating and terminating LECs liable for some of the costs being created by third-party IXCs.

Q. HAS THE INTRODUCTION OF COMPETITION CHANGED THE IDENTITY OF THE COST CAUSER?

A. No. The same end-user customers still make calls and create the need for SS7 messages. The only change as a result of local competition was the need for two LECs serving the same local area to exchange local calls (and the associated SS7 signaling messages). However, interconnection requirements were included in the 1996 Act and subsequent FCC rules to address this process. The transport and termination provisions in approved ICAs, such as the ELI-Qwest ICA, address the compensation for exchanging local calls (and the associated SS7 messages). The ELI-Qwest ICA makes no mention of separate charges for transporting and terminating SS7 messages.

Q. DOES THE ELI - QWEST ICA ADDRESS THE COMPENSATION FOR LOCAL TRAFFIC EXCHANGED BETWEEN THE COMPANIES?

A. Yes. The ICA approved by this Commission includes a reciprocal compensation mechanism for the transport and termination of local end-user traffic. Therefore, inasmuch as other mechanisms governing the termination of one another's local traffic are already in place, Qwest may not attempt to recover any of its call setup, switching or transport costs for local calls through application of its SS7 message signaling charges. Without the SS7 message there would be no traffic to transport or terminate. Thus, the reciprocal compensation provisions in the ICA fully compensate both Qwest and ELI for ALL costs involved in exchanging local traffic including the SS7 messages.

Q. DOES QWEST'S APPLICATION OF THE NEW CHARGES ON LOCAL CALLS ORIGINATED BY QWEST AND TERMINATED TO OTHER LECS ALSO VIOLATE THE 1996 ACT?

A. Yes. In order to comply with the mutual compensation requirements of Section 251(b) (5) of the 1996 Act, compensation arrangements must allow the party terminating the traffic to charge the originating party.<sup>7</sup> The originating party does not charge the terminating party for such traffic. Furthermore, FCC rules prohibit an ILEC such as Qwest from charging another LEC for the termination of end-user calls originating on the ILEC's network.<sup>8</sup> Qwest's SS7 charges are clearly a violation of both the 1996 Act and FCC rules.

Q. IS QWEST'S PROPOSED TREATMENT OF SS7 CHARGES ASSOCIATED WITH

TOLL CALLS CARRIED BY THIRD-PARTY IXCS CONSISTENT WITH THE  
ELI - QWEST ICA?

A. No. Section (C) 2.1.1 of the ICA includes the following:

.Where either Party interconnects and delivers traffic to the other from third parties, each Party shall bill such third parties the appropriate charges pursuant to its respective Tariffs or contractual offerings for such third party terminations.. {emphasis added}

The ICA clearly follows the industry standard MPB guidelines for all charges associated with toll calls originated and terminated by third-party IXCs. Since, without the SS7 messages there would be no call, any associated SS7 charges should be assessed on the IXC consistent with MPB guidelines.

Q. HAS QWEST PROPOSED RENEGOTIATING THE ICA?

A. No. Qwest appears to believe that it can change the terms of the ICA without renegotiating.

Q. ON PAGE 5 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE SUGGESTS THAT THE ADVENT OF COMPETITION HAS INCREASED THE USAGE OF QWEST'S SS7 NETWORK. HE ALSO SUGGESTS THIRD-PARTY SIGNALING PROVIDERS LIKE ILLUMINET "BEGAN ACCESSING AND UTILIZING" QWEST'S SS7 NETWORK AS COMPETITION DEVELOPED. COULD YOU PLEASE COMMENT ON THESE CONCEPTS?

A. Competition may have contributed to the increased number of entities accessing Qwest's SS7 network, but it did not create significantly more SS7 messages. Technology and innovative uses of the Public Switched Telephone Network ("PSTN") have increased the number of SS7 messages. For example, the movement from MF signaling to SS7 signaling

increased SS7 messages as did the explosion of data traffic on the PSTN.

F. QWEST'S IMPLEMENTATION OF ITS SS7

CHARGES HAS CREATED NEW SUBSIDIES

Q. ON PAGE 4, LINE 11 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE CLAIMS THAT THE COMPLAINANTS ARE UPSET ABOUT A "PRICING LOOPHOLE" THAT HAS BEEN CLOSED. ARE YOU AWARE OF ANY SUCH PRICING LOOPHOLE?

A. No. Neither Illuminet nor the Complainants utilizing Illuminet have historically received something for nothing or bypassed any charges. This Commission has ensured that Qwest's retail and wholesale rates were designed properly and applied in accordance with existing regulatory policies and industry practices. Compensation for the transport and termination of traffic, including underlying SS7 messages, has been addressed by ICAs approved by this Commission. Thus, Mr. McIntyre's claim about a loophole appears to be nothing more than smoke and mirrors to shift the Commission's focus to a mythical pricing anomaly instead of focusing on the significant new subsidies created by Qwest's application of its new SS7 charges.

Q. BEGINNING ON PAGE 7, LINE 20 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE ALLEGES CLECS, ILECS AND WIRELESS COMPANIES HAVE NOT BEEN PAYING THEIR "FAIR SHARE" OF SS7 COSTS. IS HE CORRECT?

A. No. Both the need for access and the use of the SS7 network are directly related to the underlying end-user call. Prior to the implementation of Qwest's new SS7 charges, the cost

causer for the underlying call was properly paying for all aspects of the call. Subsequent to Qwest's misapplication of its new SS7 charges, other carriers are subsidizing the actual cost causers.

Q. DID THIRD-PARTY SS7 PROVIDERS HAVE A COMPETITIVE ADVANTAGE PRIOR TO THE UNBUNDLING OF SS7 CHARGES AS ALLEGED BY QWEST WITNESS MCINTYRE BEGINNING ON PAGE 8, LINE 17 OF HIS TESTIMONY?

A. No. Third-party SS7 providers have always paid for the required SS7 network connection services. The combination of end-user customer rates and the inter-company compensation arrangements followed by this Commission have fairly compensated Qwest and other carriers for the use of the SS7 network.

Q. DOES QWEST'S MISAPPLICATION OF ITS UNBUNDLED SS7 CHARGES NOW PROVIDE ANY CARRIER(S) A COMPETITIVE ADVANTAGE?

A. Yes. IXCs now enjoy lower access rates even though their customers still create all of the SS7 costs associated with calls made by the IXCs' toll customers. By assessing SS7 charges for Qwest originated end-user calls or other calls which should be handled under existing ICAs on other LECs, including its competitors, even directly or via third-party SS7 providers, Qwest is giving itself a competitive advantage.

Q. ARE THE "UNBUNDLED SS7 RATES" THE ISSUE IN THIS CASE?

A. No. The Qwest witnesses appear to be trying to shift the Commission's focus to a non issue. Though the Complainants

are not convinced Qwest's SS7 rates actually cover their Idaho costs, the level and structure of intrastate SS7 rates is not in dispute. The manner in which Qwest has implemented the unbundled rates is at the center of this case. In addition, Qwest's reductions to switched access rates required to make the new SS7 rates allegedly revenue neutral may not have been calculated appropriately.

Q. HAS QWEST SHOWN THAT ITS SS7 RATES ARE BASED ON ITS IDAHO COSTS?

A. No. On page 21, lines 5-11 Qwest Witness McIntyre testifies that the Idaho intrastate SS7 rates were "set equal to those existing in Qwest's interstate access tariff." Furthermore, the cost justification provided to the FCC for the interstate rates was an Ameritech cost study. Thus, Qwest has provided no evidence that the intrastate SS7 rates are based on its Idaho costs. It is possible that Idaho is subsidizing other states or other states are subsidizing Idaho.

Q. ARE OTHER NEW SUBSIDIES CREATED BY QWEST'S SS7 CHARGES?

A. Yes. Qwest's misapplication of the SS7 charges introduces at least three other new subsidies. First, in addition to being a violation of existing ICAs and other regulatory policies, the new SS7 charges on local/EAS calls require another LEC to pay Qwest for SS7 costs created when a Qwest customer places a call. Basic local service gives end-user customers the ability to make and receive local calls regardless of the LEC serving the customer at the other end of the call. SS7 messages are clearly a part of the local

call that should be covered by the rate charged the end-user for the call.

Second, SS7 charges on the terminating carrier for intraLATA toll calls require the terminating carrier to pay Qwest for Qwest's SS7 signaling costs incurred when Qwest's customer places an intraLATA toll call. The terminating carrier creates no costs and should not pay. Qwest's toll rates are, or should be, designed to fully compensate Qwest for these costs.

Third, for toll calls carried by third-party IXCs, by assessing the unbundled SS7 charges on the originating and terminating LECs and the IXC instead of on just the IXC, the LECs are subsidizing the IXC whose customer makes the toll call, creating the need for the SS7 messages and pays the toll charges. In all these cases, Qwest's misapplication of its SS7 charges provides an uneconomic and unnecessary subsidy to the cost causer and possibly a windfall to Qwest itself.

Q. ON PAGE 30, LINES 13-14 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE CLAIMS THAT QWEST'S "REVENUE STREAM WAS HELD NEUTRAL." DO YOU AGREE?

A. Not necessarily. For certain calls, more than one SS7 message may be used by Qwest. However, Qwest has not shown that all the types of SS7 messages, which are now being assessed the unbundled SS7 charges, were included in the

development of the rates and the calculation of the reductions to switched access rates to make the new SS7 rates revenue neutral. Qwest has not provided any convincing documentation that the correct demand was used to calculate the SS7 message signaling rates and the reductions to switched access rates.

Furthermore, even if all the correct SS7 messages were included in the demand, Qwest has not shown that the implementation of the unbundled SS7 rates was revenue neutral to Qwest in the state of Idaho. Qwest has merely adopted in Idaho its interstate rates, which were not based on Idaho specific costs or demand. However, Qwest never shows that actual Idaho SS7 demand was used to calculate the amount of required reductions to intrastate Idaho switched access rates. Thus, this Commission cannot ensure that Qwest is not receiving a windfall in the state of Idaho.

G. QWEST FOCUSES ON THE CLASSIFICATION OF ITS UNBUNDLED  
SS7 CHARGES IN ITS ACCESS CATALOG AS OPPOSED TO THE  
MISAPPLICATION OF THAT CATALOG

Q. ON PAGE 20 OF HIS TESTIMONY, QWEST WITNESS MCINTYRE CLAIMS IT IS APPROPRIATE FOR SS7 CHARGES TO APPEAR IN QWEST'S ACCESS CATALOG. IS THERE ANY RELEVANCE TO QWEST INCLUDING THE SS7 CHARGES IN ITS ACCESS CATALOG?

A. No. Once again, Mr. McIntyre is not addressing the actual complaint. He is asking the Commission to focus on the design of its Access Catalog in-stead of the misapplication

of the rates in that Catalog. The Complainants agree with the concept of "paying for what you use" espoused by Mr. McIntyre on page 20, line 7. However, the Complainants do not agree that Illuminet or its carrier customers create most of the calls and the need for most of the SS7 messages for which Qwest is misapplying its access catalog.

Q. ON PAGE 20 OF HIS TESTIMONY MR. MCINTYRE MENTIONS THE FCC DEFINED SS7 AS ACCESS IN ITS PART 69 RULES. WHAT IS THE SIGNIFICANCE OF THE FCC'S PART 69 RULES?

A. Mr. McIntyre appears to use the FCC's Part 69 definition of SS7 as "access" to justify placing the SS7 message service in its Southern Idaho Access Catalog. However, the FCC's Part 69 Rules address the design and pricing of interstate access charges. Thus, the FCC's designation of SS7 as an "Access" service merely allows the interstate portion of SS7 costs to be recovered in interstate access charges. The NECA9 Guide to Telephone Regulation describes the FCC's Part 69 Rules as follows:

Part 69 of Title 47 of the Code of Federal Regulations contains rules governing interstate "access charges." These charges are assessed both on end-users, and on interexchange carriers (IXCs) using incumbent local exchange carriers' (ILECs') facilities to originate and terminate long-distance calls.10&11

The Part 69 rules do not specify how the Idaho (or any other state) Commission should design or price intrastate services. Mr. McIntyre has confused Qwest's decision to place its unbundled SS7 message service in its interstate access tariff with the proper assignment of costs under FCC and Idaho rate making practices.

Q. DO OTHER FCC RULES PROVIDE ANY GUIDANCE ON THE RECOVERY OF SS7 COSTS?

A. Yes. Since SS7 was determined by the FCC to be a "general network upgrade," SS7 expenses and investment should follow the same rules as other similar network expenses. Under Part 32 of the FCC's Rules, ILEC SS7 expenses are generally booked in accounts 6530, Network Expense, or 6540, Access Expense. The expenses in these accounts are either directly assigned to the state or interstate jurisdiction or allocated based on the assignment of the underlying investments (e.g., local switching). SS7 investment is booked mainly to accounts 2212, Digital Switching, and 2232, Transmission, which are allocated to the interstate and state jurisdictions based on dial equipment minutes or some other measure of relative use. Therefore, following these rules, a portion of SS7 investment and expenses fall under the FCC's rate-making jurisdiction and a portion falls under the states' authority.

While Qwest is correct that the cost recovery for the interstate portion of SS7 expenses has been through access charges, the Idaho Commission has been able to spread the recovery for SS7 expenses across all intrastate services, including basic local rates, intraLATA toll, enhanced features and intrastate access in the same manner as

switching and transmission expenses. This Commission, like many other states, did not assign SS7 expenses to any specific service, but followed a residual pricing process for all intrastate services. Therefore, for state rate making purposes, SS7 investment and expenses have historically been covered by many intrastate services, not just access as suggested by Mr. McIntyre. Moreover, neither the FCC nor this Commission has made a specific decision to change the process of recovering the expenses associated with SS7 messages.

H.QWEST HAS MISCONSTRUED THE AGENCY ROLE OF ILLUMINET

Q. QWEST WITNESS MCINTYRE, ON PAGES 26-29 OF HIS TESTIMONY AND QWEST WITNESS CRAIG, ON PAGE 18 OF HIS TESTIMONY, SUGGEST THE AGENCY RELATIONSHIP BETWEEN CTC-ID / ELI AND ILLUMINET IS LIMITED TO THE UTILIZATION OF POINT CODES. ARE THEY CORRECT?

A. No. Once again the Qwest Witnesses appear to be misconstruing the issues in this case. They work for Qwest and not Illuminet, CTC-ID or ELI and should not be expected to understand the full scope of the agency relationship between Illuminet and its customers. The Complainants do not dispute that Qwest needs to receive an LOA to provide authorization for Illuminet to establish a carrier's point code on Qwest's network. However, the agency relationship goes beyond the verification of point codes. Illuminet

conducts all negotiations and issues all orders for the services required from other parties to provide SS7 services for its customers such as CTC-ID and ELI. Where necessary, Illuminet purchases facilities on behalf of specific customers like CTC-ID and ELI. Illuminet also builds or lease its own facilities for the benefit of several customers. Thus, the agency relationship involves much more than point code utilization.

Q. DOES THE LOA AND AGENCY RELATIONSHIP AUTHORIZE QWEST TO BILL ILLUMINET SS7 MESSAGE CHARGES?

A. No. Neither the LOA nor the agency relationship provides Qwest any authority to bill Illuminet for most SS7 messages. Nowhere in the LOA is billing mentioned. To the extent any SS7 message costs are created by end-user calls made by any of Illuminet's customers, existing compensation arrangements, regulatory policies and statutes should apply.

Q. IS IT RELEVANT THAT ILLUMINET IS NOT A TELECOMMUNICATIONS CARRIER AS QWEST WITNESS MCINTYRE SUGGESTS ON PAGE 24 OF HIS TESTIMONY?

A. No. Here again the Qwest witnesses are diverting attention away from the actual concerns raised in the complaint. Illuminet's customers are telecommunications carriers

interconnected with Qwest for the purpose of delivering services to end-user customers. Illuminet acts on their behalf and has no reason to be a telecommunications carrier itself.

Q. WHO OWNS THE POINT CODES USED BY ILLUMINET?

A. Illuminet's carrier customers such as CTC-ID and ELI. Illuminet acts on behalf of its customers to carry SS7 messages to/from point codes associated with their switches and Qwest's switches. However, its customers own the point codes that identify the network locations for handing off SS7 messages, and its customers provide telecommunications services to their end-user customers who make and receive calls to and from Qwest end-users.

Q. DOES ILLUMINET MAKE THE CALLS WHICH CREATE THE NEED FOR SS7 MESSAGES?

A. No. Calls are placed and received by end-user customers of various IXCs, LECs (some of which are Illuminet's carrier customers) and Qwest itself. Illuminet does not serve the end-user customers. The carrier serving the end-user customer has its own interconnection, tariff or other arrangements with Qwest for exchanging end-user calls (and any required SS7 message) and compensation for those calls

(and any required SS7 messages).

Q. DOES ILLUMINET ITSELF NEED AN INTERCONNECTION AGREEMENT?

A. No. Illuminet's customers already have the necessary ICAs or other compensation mechanisms in place to handle compensation with Qwest.

Q. DOES THE ELI-QWEST ICA ADDRESS THE POTENTIAL FOR ELI TO BE REPRESENTED BY AGENTS OR VENDORS SUCH AS ILLUMINET?

A. Yes. In several places in the ICA, the agents as well as employees and contractors of ELI (and Qwest) are given the same status as ELI itself. One example is the "Responsibility of Each Party" outlined in section (A) 3.22 of the ICA which reads as follows:

Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations or, (ii) waste resulting therefrom or otherwise generated in

connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder. (emphasis added)

Qwest's SGAT also has similar references. It is a common practice for ELI (or Qwest) to be represented by agents in implementing the terms of the ICA. Furthermore, the ICA clearly establishes the liability of ELI for the actions of its agents.

Q. ARE AGENCY RELATIONSHIPS COMMON IN THE TELECOMMUNICATIONS INDUSTRY?

A. Yes. Many LECs, including ELI, CTC-ID and Qwest, use agents or vendors for services such as billing, directory publication, real estate and database services. For example, Alltel Information Services issues end-user bills on behalf of CTC-ID and Verizon Supply handles all supply warehouse functions for CTC-ID. Some CLECs, including ELI, use agents or consultants to handle a variety of interconnection negotiation and arbitration matters. These agents act on CTC-ID's and ELI's behalf just like Illuminet.

Q. BEGINNING ON PAGE 11, LINE 4, QWEST WITNESS MCINTYRE LISTS

VARIOUS OPTIONS ALLEGEDLY AVAILABLE TO INTERCONNECTING CARRIERS FOR THE PURCHASE OF SS7. ARE THESE OPTIONS REALLY RELEVANT TO THIS COMPLAINT?

A. No. Here again, the Qwest witness is focusing on the wrong issue. This case concerns Qwest's misapplication of the SS7 charges in its Access Catalog, regardless of how a carrier decides to meet its SS7 network requirements.

Q. EVEN IF THE OPTIONS WERE RELEVANT, ARE ALL THE OPTIONS OUTLINED BY MR. MCINTYRE REALLY VIABLE FOR SMALLER CARRIERS?

A. No. Illuminet's carrier customers have already made arrangements for SS7 network services. Therefore, they have no use for Qwest's tariffed service, UNE arrangements or infrastructure sharing arrangements. Once again, Mr. McIntyre appears to be raising a smoke screen to avoid dealing with their misapplication of SS7 charges. Qwest's contention that it can merely replace Illuminet as the provider of SS7 services is not an appropriate defense to raise when Qwest is accused of misapplying its Access Catalog.

Many smaller LECs have already chosen a third-party provider for their SS7 needs. The third-party provider acts as these LECs' agent to buy components from Qwest (and other carriers) where necessary to provide its customers an integrated SS7 solution. Some LECs also have operations outside Qwest's fourteen state region where the tariffed service or UNEs from Qwest might not be available. The economies of scale associated with using a third-party SS7 provider help smaller LECs and CMRS providers control costs,

which in turn keeps customer rates reasonable.

Q. IS THERE ANY RELEVANCE TO UNES FOR THE PURPOSE OF PURCHASING SS7 MESSAGE SERVICES BY CLECS OR CMRS PROVIDERS?

A. No. Qwest Witness McIntyre has attempted to create a distinction where none really exists. Most CLECs or wireless providers have ICAs with Qwest which address the transport and termination of traffic. As an inseparable part of the end-user call, SS7 messages are already covered by the transport and termination mechanisms in the ICAs. Thus, neither Illuminet nor any of its CLEC customers require UNEs for the formulation, access or transport of SS7 messages.

#### I. CONCLUSION

Q. PLEASE SUMMARIZE YOUR CONCERNS WITH THE QWEST WITNESSES' TESTIMONY.

A. The Qwest witnesses have avoided answering many of the pertinent issues the Complainants have raised in this case by attempting to shift the Commission's focus away from the critical policy issues. This case is not about pricing loopholes, but about changes to several long-standing regulatory policies and industry practices as a result of the misapplication of Qwest's new SS7 charges. SS7 is a critical technology used in the transport and termination of interoffice calls making SS7 messages inseparable from the calls themselves. Introducing SS7 charges on local/EAS

calls between ILECs overturns the historical Commission practice of following a "bill and keep" compensation mechanism for these calls. Only the terminating LEC is entitled to compensation for SS7 messages for LEC carried intraLATA toll calls. Most of the traffic exchanged between Qwest and competing LECs is properly addressed under the terms of the 1996 Act through negotiated ICAs, not the Access Catalog. FCC rules explicitly prevent the originating carrier from assessing any charges to the terminating carrier for local traffic as Qwest has done. Calls carried by third-party IXCs, including the required SS7 messages, are best handled by existing MPB practices (and approved ICAs). The terms of ICAs, regulatory policies and industry practices have been designed to try and best match cost recovery with the cost causer. The implementation of Qwest's new SS7 charges does exactly the opposite and, in the process, creates a subsidy flow from other LECs to Qwest itself and IXCs. Many smaller carriers have chosen to use an agent such as Illuminet for their SS7 services. Qwest attempts to ignore this relationship and its ICA with ELI by assessing the new SS7 charges on LECs through third-party SS7 providers such as Illuminet. The use of agents or vendors in the telecommunications industry is nothing new and should be respected by Qwest. The Complainants urge the Commission to focus on the real issues raised in this complaint and ignore the subterfuge Qwest has introduced.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of October, 2002, I caused a true and correct copy of the foregoing REBUTTAL TESTIMONY OF F. WAYNE LAFFERTY ON BEHALF OF CITIZENS TELECOMMUNICATIONS COMPANY OF IDAHO, ELECTRIC LIGHTWAVE, IDAHO TELEPHONE ASSOCIATION, AND ILLUMINET, INC. to be served by the method indicated below, and addressed to the following:

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Stoel Rives LLP	( ) Hand Delivered
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1900	( ) Facsimile
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Stephanie Boyett-Colgan	( ) U.S. Mail, Postage Prepaid
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McKinney, TX 75070	( ) Facsimile

Morgan W. Richards

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1 CTC-ID, ELI and the ITA will be collectively referred to as the "LEC Complainants."

2 McIntyre Testimony, page 7 lines 6-8. (emphasis added)

3 Craig Testimony, page 14, line 17 - page 15, line 7.

4 4 FCC Rcd No. 8, para 70, CC Docket No. 86-10, April 21,

1989.

5 First Report and Order in the Matter of Access Charge Reform, 12 FCC Rcd 15982, 16042 (para. 138) (1997)

6 Id. at para. 253 ("we will permit incumbent LECs to adopt unbundled signaling rate structures at their discretion and acquire the appropriate measuring equipment as needed to implement such a plan.")

7 See [252(d)(2)(A)(i)] "For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless - (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier;." (emphasis added)

8 See 47 C.F.R. Section 51.703 (b).

9 The National Exchange Carrier Association (NECA) was created by the FCC to prepare and file access charge tariffs on behalf of all telephone companies that do not file separate tariffs.

10 NECA Guide to Telephone Regulation, Part 69, page 1, August 20, 2000.

11 It is interesting to note that NECA's description does not include anything about assessing charges on other LECs.