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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO TELEPHONE ASSOCIATION,)	
CITIZENS TELECOMMUNICATIONS)	
COMPANY OF IDAHO, CENTURYTEL)	CASE NO QWE-T-02-11
OF IDAHO, CENTURYTEL OF THE GEM)	
STATE, POTLATCH TELEPHONE COMPANY)	
and ILLUMINET, INC.)	OPPOSITION TO MOTION TO
)	CONTINUE HEARING
Complainants)	
)	
QWEST CORPORATION,)	
)	
Respondent.)	

Come Now the Complainants and Intervenor Electric Lightwave, Inc. (“ELI”) in the above entitled matter (collectively the “Complainants), by and through their attorneys of record, and file this Opposition to the “Motion To Continue Hearing” (the “Motion”) by Qwest Corporation (“Qwest”) in the above-referenced proceeding. For the reasons stated herein, the Complainants oppose Qwest’s last minute efforts to delay a hearing aimed at resolving the

improper imposition of SS7 message charges upon certain of the Complainants. Qwest's apparent inability to explain its witness's testimony based on the existence of a relationship between Qwest and Syringa Networks, LLC forms no basis for a continuance, nor do any efforts to paint the Motion as attempts to "clarify" issues before the Commission or "narrowing of the issues and the possibility of settlement." Motion at 2. Qwest has had a copy of all of the documents referred to in Mr. Creason's testimony at all relevant times. Far from not creating prejudice to any party as alleged by the Motion (see id.), the Complainants have dedicated resources in place to proceed with the hearing as scheduled. Therefore, the Motion should be denied outright and the November 6, 2002 scheduled hearing in this matter should proceed.

According to Qwest, the continuance is being sought to "allow Qwest the opportunity to conduct discovery, and to prepare and file testimony in response (to) the Direct Testimony of Charles H. Creason, received by Qwest on October 21."¹ See Qwest Motion at page 1. As indicated in Mr. Creason's rebuttal testimony, he is appearing on behalf of the ITA, one of the Complainants in this case, to rebut the direct testimony of Scott McIntyre which includes "inaccurate and misleading characterizations of Syringa and the SS7 service it provides." See Creason Testimony at p. 2. Mr. Creason's rebuttal testimony was filed on October 18, 2002, the date that rebuttal testimony was due in this proceeding. In short, there would be no Creason rebuttal testimony if Qwest had not filed Mr. McIntyre's direct testimony concerning Syringa.

Qwest further complains in its Motion that Mr. Creason was not previously identified as a witness. Obviously, until Qwest's direct testimony was filed, the Complainants would not be

¹ The Idaho Telephone Association ("ITA"), which is sponsoring Mr. Creason, notes that the title of Mr. Creason's testimony contains an inadvertent typographical error in that the title should reflect the fact that Mr. Creason's testimony should be "Rebuttal Testimony" and any inconsistencies within the text should likewise be corrected. These inadvertent errors will be corrected when Mr. Creason takes the stand.

aware of the need for or the extent of rebuttal testimony.

Qwest next complains that Mr. Creason's testimony appears to rely upon a contract with a previously unidentified entity, System Seven. This is another straw man. Mr. Creason discusses the history of System Seven, which was purchased by Syringa, as background information in his rebuttal testimony. (It should be noted that System Seven ceased to exist as of June 21, 2001.)

In light of these facts, there is no basis for a continuance. Qwest's own actions initiated the need for the Creason rebuttal testimony. For Qwest to now suggest that it was somehow surprised by an issue it raised can hardly form the basis for a continuance.² At best, Qwest can explore any factual issues when Mr. Creason takes the stand at the hearing. Accordingly, Qwest has demonstrated no factual basis for the Commission to grant any continuance. Rather, the Commission should admonish Qwest for its eleventh hour tactics and proceed directly with the November 6, 2002 hearing as scheduled.

Similarly, the Commission can dismiss outright Qwest's unsupported contentions that the continuance will somehow "narrow" or "clarify" the issues in this case. The Complainants are fully confident in the Commission's ability to ascertain and identify those issues that require its decision-making, and post-hearing filings by the parties to this proceeding are more than adequate to assist those efforts. Equally unconvincing is Qwest's suggestion that the continuance will elicit potential "settlement" discussions. Although the complaint was filed only after extensive efforts were made to resolve the issues without formal Commission resolution,

² Qwest's counsel was informed on Wednesday, October 30, 2002 that the Complainants opposed the request for continuance by ITA's counsel (who in turn spoke for all of the Complainants). Contrary to any suggestion by Qwest (*see id.*, at 3), there was no need for redundant calls by counsel for any other of the individual Complainants.

Qwest has failed to initiate any substantive discussions in an effort to resolve those issues since the filing of the Complaint. Further, the intrastate issues raised in Idaho are the same that have been raised in other states and, the Complainants are not aware of any efforts by Qwest to pursue substantive discussions in those jurisdictions. At best, therefore, Qwest's claims are simply "boilerplate" with no substantive underpinnings.

Finally, Qwest's intimation that no "party will be prejudiced" by a grant of its Motion (id.) is equally without basis. As the Commission is undoubtedly aware, it was difficult to set the November 6th hearing date in the first place. Multiple attempts were made months ago to find an alternative date when it appeared that it would conflict with another unrelated hearing in which Complainants' attorneys would be participating. Finding an alternative date proved to be impossible at that time. If anything, the schedules of witnesses, attorneys and the Commission have now become less capable of change within a reasonable time period. Further, all of the out-of-town witnesses have airplane and room reservations based upon the existing schedule. Accordingly, any delay in the November 6th hearing date will, in fact, prejudice the Complainants, let alone continue to drag out the resolution of issues of which Qwest has been fully apprised for a considerable amount of time.

In light of the foregoing, the Complainants respectfully submit that the Motion should be denied. There is no rational basis upon which the Motion could be granted, and the suggestions offered by Qwest provide none. The issues raised by the Complainants need to be adjudicated by the Commission. The hearing should proceed on November 6, 2002.

Respectfully submitted this 1st day of November 2002.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of November, 2002, I caused a true and correct copy of the foregoing **OPPOSITION TO MOTION TO CONTINUE HEARING** to be served by the method indicated below, and addressed to the following:

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