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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	CASE NO. QWE-T-02-25
QWEST CORPORATION FOR)	
DEREGULATION OF BASIC LOCAL)	STAFF'S MOTION TO
EXCHANGE RATES IN ITS BOISE, NAMPA,)	STRIKE OR IN THE
CALDWELL, MERIDIAN, TWIN FALLS,)	ALTERNATIVE TO VACATE
IDAHO FALLS, AND POCATELLO)	HEARING DATE
EXCHANGES.)	

On Tuesday, April 22, 2003, seven days before the scheduled start of the hearing in this case, Qwest filed rebuttal testimony prepared by John Souba, Douglas Lincoln, Harry Shoushan, and David Teitzel, and James Schmit, along with Exhibit Nos. 20 and 21. The rebuttal filing was due no later than 5:00 p.m. on Monday, April 21, 2003. In addition to being late, the testimony and exhibits filed by Qwest are voluminous and contain substantial information not responsive to the direct testimony filed by Staff witnesses on March 19, 2003. Accordingly, Staff files this Motion to Strike some or all of the testimony and exhibits prefiled by Qwest on April 22, 2003. In the alternative, Staff moves for an Order Vacating the Hearing Date, currently scheduled to commence April 29, 2003, to provide Staff an opportunity to conduct discovery on the new material filed by Qwest and to prefile its own rebuttal testimony.

The information in Qwest's rebuttal testimony Staff believes is inappropriate and should be stricken will be more specifically identified at oral argument. At the least, Staff

requests that the entire testimony of James Schmit be stricken, as well as Qwest's new Exhibits 20, 21, and 22.

Mr. Schmit's testimony should be stricken because it purports to relay second or third hand comments made by people that attended public workshops scheduled by the Commission Staff. The meetings were informal, unrecorded, and no notes were taken. Mr. Schmit purports to tell the Commission, apparently from his own recall, what people said at the workshops. Mr. Schmit's self-serving recollection of individual comments is inadmissible hearsay. Qwest also addresses for the first time public interest concerns in Mr. Schmit's testimony. Qwest failed entirely to seriously discuss public interest issues in its direct testimony, and should not be permitted by its late filing to correct its failure to address public interest concerns.

Staff also requests that Qwest's new Exhibits 20, 21, and 22 be stricken. Those exhibits apparently are, finally, a serious effort by Qwest to attempt a meaningful price comparison between its local service and various wireless plans. As explained in David Teitzel's rebuttal testimony, Exhibits 20, 21, and 22, consisting of some 36 pages, contain significant amount of detail Qwest now offers to make price comparisons between its local service and wireless plans. Contrast that with Exhibit 13, filed in Qwest's direct filing, which is merely "a snapshot of the wireless market in Idaho as of November 2002. It [Exhibit 13] was not intended to represent all possible permutations of service to which individual customers may subscribe, but rather, to be a point of reference in examining the similarities between Qwest landline and competitive wireless service alternatives." Teitzel Rebuttal, p. 38. Exhibit 22, on the other hand, "contains a full and current listing of each and every plan offered by the unregulated wireless carriers addressed in this docket." *Id.*

There is no reason Qwest could not have prepared Exhibits 20, 21 and 22 and included them as part of its direct testimony filing. Instead, Qwest filed the flimsiest evidence on price comparisons, waited until after Staff completed its discovery and testimony on Qwest's earlier testimony and exhibits, and then filed comprehensive exhibits one week before start of the hearing. Staff of course focused its attention on Exhibit 13 and related testimony and now has no time to conduct discovery to test the assumptions or otherwise to verify the reliability of the information contained in the new exhibits.

Staff has not had an opportunity to fully review Qwest's late filing on April 22, 2003 and so has not identified all the material it believes should be stricken. Given the short period

before the hearing date and the amount of material filed by Qwest, Staff requests an oral argument on its Motion to Strike or to vacate the hearing date on Friday, April 25, at 10:30 a.m. in the hearing room of the Commission.

RESPECTFULLY submitted this 22nd day of April 2003.



Weldon B. Stutzman
Deputy Attorney General

Vld/N:QWET0225_ws3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 22nd DAY OF APRIL 2003, SERVED THE FOREGOING **STAFF'S MOTION TO STRIKE OR IN THE ALTERNATIVE TO VACATE HEARING DATE**, IN CASE NO. QWE-T-02-25, BY FAXING A COPY THEREOF TO THE FOLLOWING:

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