

WILLIAM J. BATT, ISB No. 2938
BATT & FISHER, LLP
U.S. Bank Plaza, Suite 500
101 S. Capitol Boulevard
Post Office Box 1308
Boise, ID 83701
Telephone: (208) 331-1000
Facsimile: (208) 331-2400

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2004 SEP 13 PM 4: 25

IDAHO PUBLIC
UTILITIES COMMISSION

Adam Sherr
Qwest Communications, Inc.
1600 7th Avenue - Room 3206
Seattle, WA 98191
(206) 398-2507

Attorneys for Respondent/Respondent on Appeal/Appellant

**IN THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF IDAHO**

IN THE MATTER OF THE JOINT PETITION
OF ROBERT RYDER, DBA RADIOPAGING
SERVICE, JOSEPH MC NEAL, DBA
PAGEDATE AND INTERPAGE OF IDAHO
FOR A DECLARATORY ORDER AND
RECOVERY OF OVERCHARGES FROM U.S.
WEST COMMUNICATIONS, INC.

SUPREME COURT
DOCKET NO. 29175

IPUC DOCKET NO. T-99-24

ROBERT RYDER dba RADIO PAGING
SERVICE, JOSEPH B. MC NEAL DBA
PAGEDATE AND INTERPAGE OF IDAHO,
AND TEL-CAR, INC.,

NOTICE OF CROSS APPEAL

Petitioners/Appellants/Cross Respondents,

v.
IDAHO PUBLIC UTILITIES COMMISSION,

Respondent/Cross Respondent,

and

QWEST CORPORATION,

Respondent/Respondent on Appeal/Cross
Appellant.

TO: THE ABOVE NAMED CROSS-RESPONDENTS, ROBERT RYDER dba RADIO PAGING SERVICE, JOSEPH B. MC NEAL DBA PAGEDATA AND INTERPAGE OF IDAHO, AND TEL-CAR, INC. AND THE IDAHO PUBLIC UTILITIES COMMISSION AND THE PARTIES' ATTORNEYS, JIM JONES, 1275 SHORELINE LANE, BOISE, IDAHO, 83702, DON HOWELL, 472 WEST WASHINGTON, BOISE, IDAHO, 83702 AND THE CLERK OF THE ABOVE ENTITLED ADMINISTRATIVE AGENCY.

NOTICE IS HEREBY GIVEN THAT:

1. The above named Cross-Appellant Qwest Corporation (hereinafter "Qwest") appeals against the above named Cross-Respondents to the Idaho Supreme Court from Idaho Public Utilities Commission Order No. 29555, entered in the above entitled action on the 2nd day of August, 2004.

2. The parties have a right to cross appeal to the Idaho Supreme Court. The order described in paragraph 1 above as it is an appealable final order pursuant to Rule 15 of the Idaho Appellate Rules.

3. Preliminary statement of the issues on cross-appeal:

(a) Whether the Commission erred in ordering Cross-Appellant to credit or refund certain charges for facilities used to permit Petitioners/Cross-Respondents to provide wide area calling services, i.e., charges under Qwest's Idaho Service Catalog for dedicated transport used to deliver calls from Qwest subscribers to distant paging customers of Petitioners-Cross Respondents;

(b) Whether the Commission erred in ordering Cross-Appellant to credit or refund certain charges to Petitioners/Cross-Respondents for facilities used to deliver transit traffic, i.e., charges under Qwest's Idaho Service Catalog for dedicated transport used to deliver paging calls to Petitioners/Cross-Respondents from subscribers of third party carriers (telecommunications companies other than Qwest), delivered by third party carriers to Qwest for transport to Petitioners/Cross-Respondents for delivery to their paging customers.

(c) Whether the Commission erred in ordering Cross-Appellant to include interest in its calculations of refunds or credits;

(d) Whether the Commission erred by ordering Cross-Appellant to make refunds or credits based on the Commission's interpretation of unclear decisions of the Federal Communications Commission, and indeed, by predicting future decisions of the decisions of the Federal Communications Commission on issues of first impression under federal telecommunications law.

(e) If the Commission ordered Cross-Appellant to make refunds to Cross Respondents, rather than to provide billing credits, whether the Commission erred in making such decision and in failing to provide a clear order to determine how such refunds/ billing credits or combinations thereof would be determined.

(f) Whether the Commission erred by ordering Cross-Appellant to refund or credit Petitioners/Cross-Respondents for 1-800 Pageline services.

(g) Whether the Commission erred by (i) ignoring its previous findings, conclusions, decisions and orders in this lengthy case, (ii) considering evidence outside the record; (iii) ignoring the law of the case and abusing its discretion by arriving at its findings, conclusion, and holdings without regard to the evidence presented at the trial, without an explanation as to the rationale for its departure from its previous well-reasoned decisions.

(h) Whether Petitioner/Cross-Respondent TelCar, Inc. should be dismissed from this appeal for lack of subject matter jurisdiction, because TelCar, Inc. had been liquidated in bankruptcy and gone out of existence before the original Notice of Appeal was filed in this case and TelCar's bankruptcy trustee did not authorize pursuit of the appeal until some time later.

(i) Whether the Commission erred in ordering Qwest to make refunds to TelCar, Inc., or the bankruptcy trustee of TelCar, Inc., because:

- a. TelCar, Inc. has been liquidated and gone out of existence;
- b. TelCar, Inc.'s bankruptcy trustee has not appeared in this matter before the Commission;
- c. The Supreme Court has no subject matter jurisdiction with respect to the claims of the bankruptcy trustee because said trustee did not timely file a notice of appeal; and,
- d. This Commission has no jurisdiction on remand from the Supreme Court, and the previous orders of the Commission with respect to the nonexistent entity, TelCar, Inc. became final when no authorized appeal was taken by the trustee.

4. There has not been an order entered sealing any portion of the record regarding this matter.

5. Reporter's Transcript:

- (a) No additional reporter's transcript is requested.

6. The Cross-Appellate does not request the inclusion of any additional documents, other than those added by the parties as appropriate.

7. I certify that:

- (a) The appellate filing fee has been paid.
- (b) That service has been made upon all parties required to be served pursuant to Rule 20 of the Idaho Appellate Rules.

DATED this 13th day of September, 2004.

Respectfully Submitted,

Adam Sherr
Qwest Communications, Inc.
1600 7th Avenue - Room 3206
Seattle, WA 98191

and



William J. Batt
James B. Alderman
Batt & Fisher, LLP
U S Bank Plaza, 5th Floor
101 South Capital Blvd.
Boise, Idaho 83702
(208) 331-1000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 2004, I caused a true and correct copy of the above and foregoing document to be served, in the manner indicated, on the following:

Jim Jones
JIM JONES & ASSOCIATES
1275 Shoreline Lane
Boise, Idaho 83702-6870
Telephone: (208) 385-9200
Fax: (208) 385-9955

- Hand Delivery
- U.S. Mail
- Facsimile
- Federal Express

Don Howell
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702
Telephone: (208) 334-0312
Fax: (208) 334-3762

- Hand Delivery
- U.S. Mail
- Facsimile
- Federal Express



By: _____
William J. Batt