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Attorneys for Respondent/ Respondent on Appeal

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

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.

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

Petitioners-Appellants,

v.  
IDAHO PUBLIC UTILITIES COMMISSION,

Respondent on Appeal,

and

QWEST CORPORATION,

Respondent-Respondent on Appeal.

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**QWEST CORPORATION'S  
RESPONSE TO MOTION  
TO COMPEL PAYMENT**

Qwest Corporation (“Qwest”) hereby responds to the Motion to Compel Payment dated December 15, 2004 filed by Petitioners Ryder and McNeal (“Pagers”).

The Pagers claim in their Motion to Compel Payment that the Commission has ordered Qwest to pay cash refunds of \$57,467 to Petitioner Ryder and \$97,463 to Petitioner McNeal, and claims that Qwest is “defying” the Commission’s orders. The Pagers ask the Commission to enter an order compelling Qwest to make such cash payments to the Pagers.

As the Commission is aware, this issue is presently hotly contested among the parties. Although the Commission has not yet reached a final decision, the issue is also already an issue raised by both the Pagers in their appeal to the Supreme Court, and in Qwest’s cross-appeal.

As this case evolved before the Commission, it became one in which the Commission undertook the task of determining, for each of the Pagers, the amounts by which Qwest’s Idaho tariffed charges for paging interconnection should be reduced because those charges were, in part, preempted by rules of the Federal Communications Commission. The IPUC has made those calculations in a series of orders providing amounts by which the historical charges for each pager should be reduced. Qwest fully credited all amounts ordered by this Commission to the Pagers’ accounts.

Now the Pagers seek cash payments of all those amounts that have already been credited. Qwest does not agree that it is or should be so obligated. If the Commission does clearly order Qwest to make cash payments of amounts that Qwest has already credited to the Pagers, Qwest will seek judicial intervention or review.<sup>1</sup> Until the issue is resolved before the Commission,

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<sup>1</sup> Qwest reluctantly already raised the issue in its cross-appeal at the Idaho Supreme Court, even though the issue and record were not – and indeed are not yet – fully developed, because of procedural uncertainty applicable to a situation where the IPUC continues to issue Orders in a case where the appellate issues are already being developed and briefed before the Supreme Court.

though, the Commission should bestow Qwest at least the procedural due process of denying the Pagers' Motion to Compel Payment.

DATED this 29<sup>th</sup> day of December, 2004.

Respectfully Submitted,

Adam Sherr  
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and



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29<sup>th</sup> day of December, 2004, I caused a true and correct copy of the above and foregoing document to be served, in the manner indicated, on the following:

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By:   
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William J. Batt