

MARVIN D. TRUHE
ATTORNEY AT LAW

P.O. Box 8112
Rapid City, South Dakota 57709-8112

Telephone (605) 348-8530

Email: marvtruhe@aol.com

December 15, 2003

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DEC 16 2003

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Ms. Pamela Bonrud
Executive Director
South Dakota Public Utilities Commission
Capitol Building, First Floor
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070

Re: Complaint filed by Black Hills FiberCom, L.L.C., Against Qwest Corporation Regarding Intrastate Switched Access Charges Applied to ISP-Bound Calls Which Complainant Claims is Interstate in Nature CT03-154

Dear Ms. Bonrud:

Enclosed for filing is the original and one copy of FiberCom's Answers to Qwest's Combined Requests for Admissions and Interrogatories (First Set). A copy has been sent to opposing counsel as indicated on the Certificate of Service.

Please call me if you have any questions.

Thank you.

Sincerely,



Marvin D. Truhe

Enclosure

cc w/ encl: Thomas Welk
Tim Goodwin

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

In the Matter of the Complaint Filed by Black Hills FiberCom, L.L.C., Rapid City, South Dakota Against Qwest Corporation Regarding Intrastate Switched Access Charges Applied to ISP-Bound Calls Which Complainant Claims is Interstate in Nature)	CT 03-154
)	FIBERCOM'S ANSWERS
)	TO QWEST'S COMBINED
)	REQUESTS FOR
)	ADMISSIONS AND
)	INTERROGATORIES
)	(FIRST SET)

Black Hills FiberCom, L.L.C. ("FiberCom") for its answers to the Combined Requests for Admissions and Interrogatories (First Set) of Qwest Corporation ("Qwest"), responds as follows:

ANSWERS TO REQUEST FOR ADMISSIONS

[Note: The term "traffic in dispute" as defined by Qwest in its Request for Admissions inaccurately defines the traffic that is the subject of FiberCom's Complaint. Thus, as defined, FiberCom would deny, for that reason, each Request for Admissions that uses that term, or the related term "disputed traffic." In order to respond meaningfully herein to Qwest's Requests for Admissions, the "traffic in dispute" or "disputed traffic" that is the subject of FiberCom's Complaint is ISP-bound traffic initiated by FiberCom's customers outside Qwest's Rapid City local calling area using an access number within Qwest's Rapid city local calling area which traffic is delivered to an ISP customer of Qwest and continues through the ISP server and terminates at the remote Internet sites accessed by the FiberCom customers. Using that definition, FiberCom responds as follows.]

Request for Admission 1: Admit that the current dispute outlined in your Complaint in this docket arises out of the current interconnection agreement. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 1: Denies. Qwest has improperly billed FiberCom for the traffic in dispute pursuant to Qwest's intrastate switched access tariffs and rates which were approved by the South Dakota Public Utilities Commission ("Commission"). FiberCom is asking the Commission for relief pursuant to its jurisdictional authority under SDCL Title 49 and ARSD 20:10:29, and its jurisdiction over the intrastate tariffs and rates pursuant to which Qwest billed FiberCom for the traffic in dispute.

Request for Admission 2: Admit that the traffic in dispute does not originate within Qwest's local calling area for Rapid City as defined by the South Dakota Public Utilities Commission ("Commission"). If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 2: Admit.

Request for Admission 3: Admit that if the traffic in dispute is not subject to Qwest's intrastate switched access tariffs and rates, then the traffic is subject to Qwest's interstate switched access tariffs and rates. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 3: Denies. The traffic is subject to either Qwest's interstate switched access tariffs and rates, or to the billing regime for such calls established by the Federal Communication Commission in its "Order on Remand" as defined in Paragraph 18 of FiberCom's Complaint.

Request for Admission 4: Admit that the traffic in dispute is not originated and completed within the same local calling area as is provided by Qwest for local calls. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 4: Admit.

Request for Admission 5: Admit that the traffic in dispute is not local traffic within the meaning of the current interconnection agreement. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 5: Admit.

Request for Admission 6: Admit that the disputed traffic is not subject to “bill and keep” under the current interconnection agreement. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 6: Admit.

Request for Admission 7: Admit that the disputed traffic is not subject to any reciprocal compensation arrangement contained in the current interconnection agreement. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 7: Admit.

Request for Admission 8: Admit that the current interconnection agreement requires arbitration of this dispute if the dispute arises out of or relates to the current interconnection agreement. If you do not admit this request, state the reason why such admission cannot be made.

Answer to Request 8: Denies. The arbitration clause of the interconnection agreement would apply only if the traffic in dispute was subject to its terms and there was no legal basis for denial of application of the arbitration clause.

Request for Admission 9: Admit that you contend the disputed traffic is interstate traffic.

Answer to Request 9: Admit.

ANSWERS TO INTERROGATORIES

Interrogatory 1: Where, relative to Qwest's local calling area for Rapid City as defined by the South Dakota Public Utilities Commission ("Commission"), is the traffic in dispute "completed" (as that term is used in the definition of "local traffic" in the current interconnection agreement)?

Answer 1: No definition of "completed" was found in the current interconnection agreement; and, in any event, the traffic in dispute does not arise out of the current interconnection agreement. [See, Answer to Request 1, above]. However, in the vast majority of instances the traffic in dispute is completed in a state other than South Dakota. The only exceptions would be calls accessing websites located within South Dakota.

Interrogatory 2 (a): What is the appropriate rate to be applied to the traffic in dispute?

Answer 2 (a): Either Qwest's interstate switched access tariffs and rates, or the billing regime for such calls established by the Federal Communication Commission in its "Order on Remand" as defined in Paragraph 18 of FiberCom's Complaint.

Interrogatory 2 (b): What is the source for selecting that rate?

Answer 2 (b): The traffic in dispute is interstate traffic and thus subject to the rates applicable to Qwest's billing for interstate traffic.

Interrogatory 3 (a): Is the disputed traffic addressed under the current interconnection agreement?

Answer 3 (a): No

Interrogatory 3 (b): By what provisions?

Answer 3 (b): Not applicable

Interrogatory 3 (c): How is the disputed traffic classified under the current interconnection agreement?

Answer 3 (c): Not applicable

Signed this 15th day of December, 2003.

Kyle D. White
Kyle D. White, Vice President Corporate Affairs

State of South Dakota)
) ss.
County of Pennington)

VERIFICATION

Kyle D. White, being first duly sworn upon his oath, deposes and states that he is the Vice President of Corporate Affairs for Black Hills FiberCom, L.L.C., Complainant herein, and has answered the foregoing Requests for Admissions and Interrogatories to the best of his knowledge and information, and believes the same to be true.

Kyle D. White
Kyle D. White, Vice President Corporate Affairs

Subscribed and sworn to before me this 15th day of December, 2003.

Suzanne K. Hoffman
Notary Public

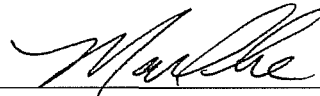
(SEAL)

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2003 a true and correct copy of the foregoing **FiberCom's Answers to Qwest's Combined Requests for Admissions and Interrogatories (First Set)** were served via United States first class mail, postage prepaid, on the following:

Thomas J. Welk
Boyce, Greenfield, Pashby and Welk, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57717-5015

Tim Goodwin, Senior Attorney
Qwest Services Corporation
1801 California Street 47th floor
Denver, CO 80202



Marvin D. Truhe