

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

**IN THE MATTER OF THE COMPLAINT
FILED BY ELDON LINDQUIST ON BEHALF
OF PIERRE RADIO PAGING & TELEPHONE,
PIERRE, SOUTH DAKOTA,
AGAINST QWEST CORPORATION
REGARDING A BILLING DISPUTE**

CT05-003

ANSWER

**RECEIVED
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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Qwest Corporation ("Qwest"), by and through its counsel, hereby answers and responds to the Complaint filed by Eldon Lindquist on behalf of Pierre Radio Paging & Telephone ("PRPT"). Contemporaneous with this Answer, Qwest is filing a Motion to Dismiss All Claims Prior to April 14, 1999 pursuant to SDCL 15-2-13 and ARSD 20:10:01:11:01. Qwest respectfully asks the Commission to consider that Motion to Dismiss first, and then the defenses raised herein.

Qwest's responses below correspond to the paragraphs and/or sentences contained in "Exhibit 1" attached to the Complaint. The rest of the documents attached to the Complaint speak for themselves.

ANSWER

1. Qwest admits it sent a letter to PRPT and asserts that the letter speaks for itself. It is attached to PRPT's Complaint immediately after Exhibit 1.
2. Qwest admits that PRPT sent it a response dated August 2, 2000 and asserts that the letter speaks for itself. It is attached to PRPT's Complaint.
3. Qwest admits that it sent a letter to PRPT dated January 21, 2001 that contained offers of settlement. Qwest asserts that the letter speaks for itself. It is attached to PRPT's Complaint. Except as so admitted, Qwest denies the allegations in paragraph two.

4. Qwest admits that it sent a letter to PRPT dated June 22, 2001. Qwest asserts that the letter speaks for itself. It is attached to PRPT's Complaint.

5. Qwest denies the allegations contained in paragraph five.

6. Qwest admits that the U.S. Court of Appeals for the District of Columbia issued a decision on January 16, 2004 in the case of *Mountain Communications v. FCC*, 355 F.3d 644.

Except as so admitted, Qwest denies the allegations in paragraph six.

7. On June 21, 2000, the Federal Communications Commission released a *Memorandum Opinion and Order* in a case titled *In the Matters of TSR Wireless v. U S West Communications*, 15 FCC Rcd 11166. The FCC held in that case that incumbent local exchange carriers may not assess charges for local interconnection facilities used to deliver traffic that originates on their networks and is delivered to paging providers. In accordance with the FCC's *Memorandum Opinion and Order* as it applies to the claims filed by PRPT in this case, Qwest admits that it owes a refund to PRPT for charges for local interconnection facilities for the time period from April 1999 to July 2000 in the amount of \$5,429.49 plus prejudgment interest.

AFFIRMATIVE DEFENSES

1. Under SDCL 15-2-13, all of PRPT's claims prior to April 14, 1999 are barred by the statute of limitations.

2. PRPT's claims are barred by waiver.

3. PRPT's claims fail to the extent PRPT seeks a refund for charges for transiting traffic.

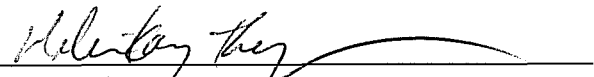
4. PRPT's claims fail to the extent PRPT seeks a refund for charges for facilities and services that are not essential for interconnection including, but not limited to, private lines, foreign exchange facilities, Wide Area Calling services, 800 Pageline Services, diversity

products, nonrecurring charges for Direct Inward Dialing numbers, after hours labor and retail lines.

WHEREFORE, Qwest respectfully asks the Commission to deny PRPT's claims for damages except to the extent that Qwest has admitted liability for those claims as set forth above.

Respectfully submitted this 2nd day of May, 2005.

QWEST CORPORATION

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CERTIFICATE OF SERVICE

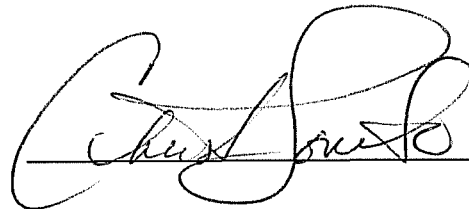
I hereby certify that on this 2nd day of May, 2005, an original and 10 copies of the foregoing **QWEST CORPORATION'S ANSWER** was served upon the following party:

Ms. Pam Bonrud
Executive Secretary
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501-5070

a copy was also sent to the following:

Eldon Lindquist
Pierre Radio Paging and Telephone
P.O. Box 99
Pierre, SD 57501-0099

Thomas M. Maher, Esq.
201 N. Euclid Ave.
Pierre, SD 57501



A handwritten signature in cursive script, appearing to read "Eldon Lindquist", is written over a horizontal line.