

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

Docket No. 08F-259T

---

QWEST COMMUNICATIONS CORPORATION,

Complainant.

v.

MCIMETRO ACCESS TRANSMISSION SERVICES, LLC, *et al.*,

Respondents.

---

**ANSWER OF LIBERTY BELL TELECOM, LLC TO AMENDED  
COMPLAINT**

---

Liberty Bell Telecom, LLC (“Liberty Bell”), by and through its undersigned counsel, hereby files its Answer to the Amended Complaint filed by Qwest Communications Corporation (“QCC”), and states as follows:

**ANSWER**

1. Liberty Bell lacks sufficient knowledge of the allegations contained in paragraph 1 of the Amended Complaint and, as such, neither admits nor denies those allegations.

2. Liberty Bell admits the allegations of paragraph 2(m) of the Amended Complaint. The other subparagraphs in paragraph 2 discuss the status of other companies and, as such, Liberty Bell lacks sufficient knowledge and neither admits nor denies those allegations.

3. The allegations of paragraph 3 of the Amended Complaint state a legal conclusion and Liberty Bell neither admits nor denies those allegations.

4. Liberty Bell lacks sufficient knowledge regarding the quantity of intrastate switched access charges that QCC purchases from any particular local exchange carrier or the other Respondent CLECs' tariffing practices, and, therefore, neither admits nor denies the first sentence of paragraph 4 of the Amended Complaint, or the second sentence of paragraph 4 of the Amended Complaint as it relates to other carriers. Liberty Bell admits that it tariffs intrastate switched access rates in Colorado. The third sentence of paragraph 4 of the Amended Complaint states a legal conclusion and Liberty Bell neither admits nor denies that allegation.

5. The allegations in paragraph 5 of the Amended Complaint are a matter of public record which speaks for itself and Liberty Bell neither admits nor denies the allegations.

6. Liberty Bell lacks sufficient knowledge regarding proceedings in this docket prior to Liberty Bell's being served with the Amended Complaint and, as such, neither admits nor denies the allegations.

7. The allegations in subparagraphs 7(a)-(l) and 7(n) of the Amended Complaint involve other carriers and, as such, Liberty Bell lacks sufficient knowledge and neither admits nor denies the allegations. As to the allegations in subparagraph 7(m)(i) of the Amended Complaint, Liberty Bell admits the allegations in each of those three sentences.

As to the allegations in subparagraph 7(m)(ii) of the Amended Complaint, Liberty Bell admits that it is a party to agreements that are national in scope and include provisions relating to intrastate access charges, as well as other nonregulated services, that have not been filed in Colorado. Liberty Bell admits that QCC recently requested

copies of its agreements and that those have not been previously provided to Qwest.

Liberty Bell denies all remaining allegations of paragraph 7(m)(ii).

7. In response to the second numbered paragraph 7 of the Amended Complaint, Liberty Bell restates and incorporates its answers to the allegations above.

8. Paragraph 8 of the Amended Complaint states legal conclusions and, as such, Liberty Bell neither affirms nor denies those allegations.

9. Liberty Bell denies the allegations in paragraph 9 of the Amended Complaint as they relate to Liberty Bell only. Liberty Bell lacks sufficient knowledge to provide a response regarding the other Respondent CLECs and, therefore, neither admits nor denies those allegations.

10. Liberty Bell restates and incorporates its answers to the allegations above.

11. Paragraph 11 of the Amended Complaint states legal conclusions and, as such, Liberty Bell neither admits nor denies those allegations.

12. Liberty Bell lacks sufficient knowledge regarding allegations in paragraph 12 relating to any carrier other than Liberty Bell and, therefore, neither admits nor denies those allegations. Liberty Bell admits that it has agreements that have not been filed with the Commission, but denies that the agreements discriminates against any other carrier, including QCC. Liberty Bell denies all remaining allegations of paragraph 12 of the Amended Complaint.

13. The allegations in paragraph 13 of the Amended Complaint do not relate to Liberty Bell and, as such, Liberty Bell neither admits nor denies those allegations.

14. The allegations in paragraph 14 of the Amended Complaint do not relate to Liberty Bell and, as such, Liberty Bell neither admits nor denies those allegations.

15. The allegations in paragraph 15 of the Amended Complaint do not relate to Liberty Bell and, as such, Liberty Bell neither admits nor denies those allegations.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief may be granted.
2. The Complaint is barred, in whole or in part, by the applicable statute of limitations.
3. The Complaint is barred, in whole or in part, by the filed rate doctrine.
4. The Complaint is barred, in whole or in part, by the doctrines of waiver and estoppel.
5. The Complaint is barred, in whole or in part, because the Commission may lack jurisdiction over Liberty Bell's agreements or portions thereof.
6. The Complaint is barred, in whole or in part, because Liberty Bell's agreements must be read as a whole in determining whether a carrier is being discriminated against.
7. The Complaint is barred, in whole or in part, because QCC is not similarly situated to other IXCs who have certain terms and conditions in their agreements with Liberty Bell.
8. The Complaint is barred, in whole or in part, because the Commission lacks jurisdiction to order the relief sought by QCC.
9. The Complaint is barred, in whole or in part, because the relief requested would violate the prohibitions against retroactive ratemaking.

Dated this 5th day of January, 2009.

Respectfully submitted,

Liberty Bell Telecom, LLC

By:

A handwritten signature in cursive script, appearing to read "R. Kashiwa", written over a horizontal line.

Mary B. Tribby

Robyn A. Kashiwa

Holland & Hart LLP

555 17th St., Suite 3200

Denver, CO 80202

303-295-8000

303-295-8261 (fax)

## CERTIFICATE OF SERVICE

I hereby certify that the original and four (4) copies of the foregoing **ANSWER OF Liberty Bell Telecom, LLC TO AMENDED COMPLAINT** was filed via hand-delivery on this 5th day of January, 2009, to the following:

Doug Dean, Director  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202

and I hereby certify that a true and correct copy of same was sent via electronic mail and regular U.S. Mail, (where no email address is listed) postage pre-paid, on this 5th day of January, 2009, addressed to the following:

Richard L. Corbetta, Esq.  
Melissa A. O'Leary, Esq.  
Corbetta & O'Leary, P.C.  
999 18th Street, Ste. 3150  
Denver, CO 80202  
[rich@co-legal.com](mailto:rich@co-legal.com)  
[Melissa@co-legal.com](mailto:Melissa@co-legal.com)

Thomas F. Dixon, Esq.  
MCImetro Access Trans.Services, LLC  
707 17th Street, Ste. 4000  
Denver, CO 80202  
[Thomas.f.dixon@verizon.com](mailto:Thomas.f.dixon@verizon.com)

Ginny Zeller, Esq.  
Senior Attorney  
Eschelon Telecom, Inc.  
730 Second Avenue South, Suite 900  
Minneapolis, MN 55402  
[gazeller@eschelon.com](mailto:gazeller@eschelon.com)

Gregory Merz  
Gray Plant Mooty Mooty & Bennett, P.A.  
500 IDS Center  
80 South Eighty Street  
Minneapolis, MN 55402  
[Gregory.merz@pgmlaw.com](mailto:Gregory.merz@pgmlaw.com)

Mr. Sam Kline  
Vice President - Strategic Initiatives  
Granite Telecommunications, Inc.  
100 Newport Avenue  
Quincy, MA 02171

Andrew M. Klein  
Klein Law Group <sup>PLLC</sup>  
601 13th St. NW  
Suite 1000 South  
Washington, D.C. 20005  
[AKlein@KleinLawPLLC.com](mailto:AKlein@KleinLawPLLC.com)  
Counsel for Granite Telecommunications

Arizona Dialtone, Inc.  
Dba Touch Home Phone Service  
6115 So. Kyrene Rd., Ste. 103  
Tempe, AZ 85283

Claudio E. Iannitelli, Esq.  
Glenn B. Hotchkiss, Esq.  
Daniel P. Velocci, Esq.  
Cheifetz, Iannitelli, Marcollini, P.C.  
1850 North Central Avenue  
Viad Tower, 19th Floor  
Phoenix, AZ 85004  
[cei@cimlaw.com](mailto:cei@cimlaw.com)  
[dpv@cimlaw.com](mailto:dpv@cimlaw.com)  
[gbh@cimlaw.com](mailto:gbh@cimlaw.com)

Adam L. Sherr, Esq.  
Corporate Counsel  
Qwest Communications Corporation  
1600 7th Avenue, RM 3206  
Seattle, WA 98101  
[adam.sherr@qwest.com](mailto:adam.sherr@qwest.com)

Cory Skluzak  
Rate/Financial Analyst  
Office of Consumer Counsel  
1560 Broadway, Suite 200  
Denver, CO 80202  
[Cory.skluzak@dora.state.co.us](mailto:Cory.skluzak@dora.state.co.us)

Gregory E. Bunker, Esq.  
Assistant Attorney General  
Office of Consumer Counsel Unit  
Office of the Attorney General  
1525 Sherman Street, 7th Floor  
Denver, CO 80203  
[gregory.bunker@state.co.us](mailto:gregory.bunker@state.co.us)  
[Dale.hutchins@state.co.us](mailto:Dale.hutchins@state.co.us)  
[Chere.mitchell@dora.state.co.us](mailto:Chere.mitchell@dora.state.co.us)

MCImetro Access Transmission Services,  
LLC  
23001 Loudoun County Prkwy.  
Ashburn, VA 20147

Gregory J. Kopta, Esq.  
Davis Wright Tremaine LLP  
1201 Third Avenue, Suite 2200  
Seattle, WA 98101  
[Gregkopta@dwt.com](mailto:Gregkopta@dwt.com)

Eschelon Telecom of Colorado, Inc.  
1201 Northeast Lloyd Blvd., Ste. 500  
Portland, OR 97232

Susan Travis  
Trial Advocacy Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
[Susan.travis@dora.state.co.us](mailto:Susan.travis@dora.state.co.us)

Roxi Nielsen  
Trial Advocacy Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
[Roxi.nielsen@dora.state.co.us](mailto:Roxi.nielsen@dora.state.co.us)

Pat Parker  
Trial Advocacy Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Pat.parker@dora.state.co.us

Becky Quintana  
Advisory Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Becky.quintana@dora.state.co.us

Michael Hydock  
Advisory Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Michael.hydock@dora.state.co.us

Paul Gomez  
Office of Attorney General  
1525 Sherman Street, 5th Floor  
Denver, CO 80203  
Paul.gomez@state.co.us

Lynn Notarianni  
Trial Advocacy Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Lynn.notarianni@dora.state.co.us

Bill Steele  
Advisory Staff  
Colorado Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Bill.steele@dora.state.co.us

Michael J. Santisi  
Office of Attorney General  
1525 Sherman Street, 5th Floor  
Denver, CO 80203  
Michael.santisi@state.co.us

*s/Virginia Oen*  
\_\_\_\_\_  
Virginia Oen