

CURTIS L. KENNEDY

ATTORNEY AT LAW

8405 E. PRINCETON AVE.
DENVER, CO 80237-1741
CurtisLKennedy@aol.com

TELEPHONE (303) 770-0440

FAX (303) 843-0360

ALSO ADMITTED IN:

UNITED STATES SUPREME COURT
STATE OF ARIZONA
STATE OF OKLAHOMA
STATE OF TEXAS
WASHINGTON, D.C.

April 15, 2004

Christopher J. Koenigs, Esq.
Michael B. Carroll, Esq.
SHERMAN & HOWARD, L.L.C.
633 17th Street, Suite 3000
Denver, CO 80202
Tele: 303-297-2900
Fax: 303-298-0940
ckoenigs@sah.com
mcarroll@sah.com

(Via Fax and Email)

Lewis M. Quigg, Esq.
SHAW & QUIGG, P.C.
501 N. Main St., Suite 222
Pueblo, CO 81003
Tele: 719-543-8596
Fax: 719-543-8599

(Via Fax)

Re: *Colvin v. Qwest Communications International, Inc.*
Case No. 04-CV-39, Division B, Otero County District Court, La Junta, CO
Plaintiff's Rule 26 Initial Disclosures

Gentlemen:

The purpose of this letter is to start the process for preparation of a Case Management Order. Therefore, Plaintiff Wesley Colvin submits the following Initial Disclosures pursuant to Rule 26(a)(1) of the Colorado Rules of Civil Procedure. After you review this disclosure letter and the attached list of documents that are ready for your inspection and review, please communicate when you will make initial disclosures, document production and your proposal for a meeting to work on a Case Management Order. I can be available during the next two weeks. Thank you.

INTRODUCTORY STATEMENT

The following disclosures are made based on the information reasonably available to Plaintiff as of this date. By making these disclosures, Plaintiff does not represent that he is identifying every document, tangible thing or witness possibly relevant to this lawsuit. Nor does Plaintiff waive his right to object to production of any document or tangible thing identified herein on the basis of privilege, the work product doctrine, relevancy, undue burden or any other valid objection. Plaintiff's disclosures represent a good faith effort to identify information he may use to support his claims (with the exception of information to be used for impeachment) as required by Rule 26(a)(1). Plaintiff's disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy, hearsay or any other proper ground to the use of any such information, for any purpose, in whole or in part, in this action or any other action; (2) the right to object on any and all grounds, at any time, to any discovery request or proceeding involving or relating to the subject matter of these disclosures. The disclosures set forth below are made subject to the above objections and qualifications.

(1) Disclosures.

(A) Individuals likely to have discoverable information that Plaintiff may use to support his claims:

- (1)** Named Plaintiff Wesley Colvin
25041 Lazy Acres Road
La Junta, CO 81050-9740;
Tele: 719-384-2436 (h)
- (2)** Barry Allen, EVP of Qwest;
- (3)** Qwest employee witnesses (unknown) who made the decision to terminate the retiree telephone concession payable to Mr. Colvin and putative class members;
- (4)** Qwest employees and former employees (unknown) who served within and supervised the department in charge of the Omaha, Nebraska Telephone Concession office during the period, at least 1984 to the present;
- (5)** Qwest employees and former employees and officers (unknown), including Ian Zisken and Jack Shea who implemented the Interdepartmental manual and regional policies regarding the retiree telephone concession benefit;

- (6) Qwest employees and former employees (unknown) who distributed company publications regarding the retiree telephone concession benefit (see names appearing on documents); and
- (7) Other not yet identified members of the putative class.

(B) Description by category and location of all documents, data compilations, and tangible things in the possession, custody, or control of Plaintiff that may be used to support his claims.

- (1) See the 10 page list attached hereto of documents relating to the Retiree Telephone Concession;
- (2) Documents relating to Plaintiff's loss of telephone concession benefit which would be the cost of his local telephone service as invoiced to him by the Independent Telephone Company serving La Junta, Colorado since January 2004; and
- (3) Additional (unknown) documents and email in the possession of Qwest pertaining to the retiree telephone concession benefit.

All documents listed on the attached 10 page list are in Plaintiff's counsel's possession and are *now* available for inspection, photocopying and return to Plaintiff's counsel. Also, Plaintiff will produce copies of his local service and IntraLata toll charges for the period January 2004 going forward.

(C) Computation of any category of damages.

- (1) **Named Plaintiff's Damages.** Plaintiff's damages are the equivalent of the non-reimbursed local telephone services and IntraLata toll charges incurred each month since January 2004. Qwest has a historical record of the monthly reimbursements to Plaintiff and he anticipates the same amount each month which is roughly \$100;

(2) **Putative Class Members' Damages.** It is estimated that as many as 4,500 persons are in the putative class and, like Plaintiff, their respective damages are the equivalent of the non-reimbursed local telephone services and IntraLata toll charges incurred each month since January 2004. Qwest has a historical record of the monthly reimbursements to all putative class members and the monthly amount is unknown to Plaintiff; and

(3) **Damages for Wilful Breach of Contract.** Plaintiff and the putative class members seek an appropriate amount of damages recoverable for wilful breach of contract. But, that amount has not yet been determined.

(D) **Insurance agreements.** None.

(2) **Disclosure of Expert Witness(es).**

At this very early stage in the proceedings it is not known whether Plaintiff and the putative class will require an expert witness and no expert witness is presently designated.

Sincerely,

Curtis L. Kennedy

Attachment (10 page list of documents)

c: Wesley Colvin
AUSWR (for putative class members)

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WASHINGTON, D.C.

April 15, 2004

List of Retiree Telephone Concession Reimbursement Documents:

Date (Approximate):

Originator

Title and Description:

| <u>Date (Approximate):</u> | <u>Originator</u> | <u>Title and Description:</u> |
|-----------------------------------|--|---|
| Revised 12-1-61 Revised 7-1-63 | Mountain States Telephone & Telegraph Company | Interdepartmental Manual No. 122 –Telephone Service Furnished to Active and Pensioned Employees for Personal Use (21 pages) |
| January 1974 | Benefits Department - Mountain Bell | Telephone Service After Retirement. . . “Effective with your retirement. . . charges for your residence telephone service will be paid by this Company. . . during your lifetime. . . After retirement, if you take up residence in an area not served by Mountain Bell, this concession still applies. . .” (1 page) |

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| July 1978 | Human Resources - Corporate Benefits Mountain Bell | Pensioners' Concession Telephone Service . . . "When your pension is effective, charges for your residence telephone service will be paid by this Company. . . during your lifetime. . .also applies if your telephone service is provided by a company other than Mountain Bell. . .If you take up residence in an area not served by Mountain Bell, this concession still applies. . ." (3 pages) |
| February 1980 | Secretary, Employees' Benefit Committee Mountain Bell | Mountain Bell Pensioners' Concession Telephone Service. . . "When your pension is effective, charges for your residence telephone service will be paid by this Company. . . during your lifetime. . .If you take up residence in an area not served by Mountain Bell, this concession still applies." (1 page) |
| April 23, 1982 | Karen E. Carey, Benefits Administration Mountain Bell | Dear Pensioner. . . "If you take up residence in an area not served by Mountain Bell, this concession still applies. . ." (3 pages) |
| June 1982 | John G. Shea, Benefits Administration Mountain Bell | Your Personal Retirement Benefits Package - Supplemental Income Protection Program. . . "Listed below and/or attached are various items of information pertaining to your retirement. . . Pensioners' Concession Telephone Service. . .IM 122. . ." "When your pension is effective, charges for your residence telephone service will be paid by this Company. . . during your lifetime. . .also applies if your telephone service is provided by a company other than Mountain Bell. . .If you take up residence in an area not served by Mountain Bell, this concession still applies." (41 pages) |
| (1982) | Northwestern Bell Telephone Company | Page 16 - Telephone Concession Service. . . "Concession rate remains in effect to second billing date following death of pensioner." (1 page) |
| October 28, 1983 | John G. Shea, Benefit Administration Mountain Bell | Dear Retire Employee. . . "Mountain Bell has announced that employee concession telephone service for people who have retired before January 1, 1984 <u>will not change</u> . . ." (1 page) |

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| 1983 | Mountain Bell | Management Income Protection Plan (MIPP) Table of Contents: Questions and Answers. . . “If you accept MIPP, and are eligible for a Service Pension, then you will receive the Retiree Telephone Concession Policy in place at the time you leave the active payroll.” (|
| January 16, 1984 | D.E. Christenson, Pensioner/Contact Administration Northwestern Bell | To Pensioners Retired Prior to 1984. . . ‘You will continue to receive the same level of concession on Local Service items as you have in the past.’ (2 pages) |
| January 27, 1984 | H.M. Moyer, Secretary Employees Benefit Committee Pacific Northwest Bell | Dear Retired Employee. . . “The key points of your telephone concession service are as follows. . . If you currently live in area served by a company other than PNB, Mountain Bell or Northwestern Bell, you will also receive the same concession privileges.” (2 pages) |
| Revised 02-15-84 Revised 02-01-84 Revised 01-01-84 Revised 05-27-83 Revised 06-20-83 Revised 12-01-82 | Mountain States Telephone & Telegraph Company | Interdepartmental Manual No. 122 –Concessioned Telephone Service and Equipment (21 pages) |
| March 6, 1984 | John G. Shea, Benefit Administrator Mountain Bell | Dear Retired Employee. . .”Enclosed are new procedures for processing telephone bills for those of you who retired prior to January 1, 1984. . . The second part will explain how bills will be processed if you are served by an Independent Telephone Company or another Bell Operating Company.” (5 pages) |
| March 26, 1984 | Don Christenson, Pensioner Contact/Administration Northwestern Bell | To: Pensioners Retired Prior to 1984. . . “Local Service will be provided at the same level as was received prior to divestiture.” (7 pages) |

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| (Summer) 1984 | John G. Shea, Benefit Administrator Mountain Bell | Dear Pensioner. . . “Pensioner Phone Bill for outside the Mountain Bell Serving Area – To eliminate the delay for reimbursement for local and toll charges, we have started issuing checks for reimbursement from the Benefits office.” (2 pages) |
| October 24, 1984 | John G. Shea, Secretary Employees’ Benefit Committee Mountain Bell | Dear Pensioner. . . “Toll Concession for those retired prior to January 1, 1984 living in the Mountain Bell serving area.” (3 pages) |
| January 21, 1985 | John G. Shea, Director Benefits and Compensation Mountain Bell | Dear Retired Employee. . . “With divestiture last year, we asked you to follow some new procedures when submitting your telephone bill for concession.” (2 pages) |
| September 18, 1985 | John G. Shea, Secretary Employees’ Benefit Committee | Dear Retired Employee. . . “Please be aware that these new procedures DO NOT change the amount of concession you receive, only the way the concession is delivered.” (6 pages) |
| January 1, 1986 through February 28, 1986 | Mountain Bell | Early Retirement Enhancement Information Package U S WEST Management Pension Plan Special Provisions 1-1-86 through 2-28-86. . . “Concession service continues at the same level.” (5 pages) |
| January 17, 1986 | Mountain Bell | Memorandum To: . . . “ <u>Employee Concession</u> Effective January 1, 1986 Employee Concession is a taxable benefit if reimbursed by a voucher as a result of the Deficit Reduction Act of 1984. This will effect all employees living in Independent Telephone Co. Areas who use Form 6539 for reimbursement. (2 pages) |
| Revised 09-15-86 Revised 04-04-86 Revised 02-15-85 | Mountain States Telephone & Telegraph Company | Interdepartmental Manual No. 122 –Concessioned Telephone Service and Equipment (34 pages) |

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| October 7, 1986 | C.E. Simmons, Vice President- human Resources U S WEST Direct | Mr. Walt Trandum and Ms. Shirley Sperber. . . “we not be discontinuing telephone concession payments to people who have already retired. . . When you retired, U S WEST Direct, not the Union, made certain commitments to you and we will honor those commitments. I’m sorry that you have worried needlessly.” (2 pages) |
| June 17, 1988 | Pacific Northwest Bell Employee Services | <u>INDEPENDENT TELEPHONE CONCESSION TAXABLE</u> . . . “beginning July 1, 1988, employees living in independent telephone territory who are eligible to voucher their telephone service will have their reimbursement taxed as imputed income.” (1 page) |
| 1988 | Mountain Bell Benefits and Compensation | Benefits and Compensation Newsletter. . . “At the time of the death of the retiree, concession telephone service will be continued for two billing periods.” (2 pages) |
| March 27, 1989 | W.W. Weed, Director Benefit Services U S WEST Communications | Dear Retirees. . . “Effective April 3, 1989, there will be a change in the administration of the pensioner concession plan. . . services will be centralized in Omaha, Nebraska. Since you are one of our retirees whose telephone service is provided outside of the PNB region, there will be a new point of contact for your concession inquiries or needs.” (1page) |
| April 15, 1989 | Connie L. Aden, Director Benefit Administration, U S WEST Communications | Dear Retirees. . . “Effective May 1, 1989, there will be a change in the administration of the pensioner concession plan. . . services will be centralized in Omaha, Nebraska. Since you are one of our retirees whose telephone service is provided outside of the Mountain Bell region, there will be a new point of contact for your concession inquiries or needs.” (1page) |
| June 1989 | Eleanor E. Brown, Telephone Concession Supervisor U S WEST Communications | Dear Retirees. . . “The centralization of pensioner telephone concession into Omaha, Nebraska is complete. (1page) |

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| December 15, 1989 | J. Thomas Bouchard, Senior Vice President and Chief Human Resources Officer | Dear Employee. . . “Enclosed is detailed information covering the various features of this offer [5+5]. . . Other Benefits. . . Concession service continues at the same level, if applicable.” (16 pages) |
| February 12, 1990 | U S WEST | U S WEST TODAY. . . “Concession: If you have it now, you still will under new plan. . . If you previously received “grandfathered” concession in independent territory, you’ll continue to receive concession, unless you move your residence.” (12 pages) |
| February 26, 1990 | U S WEST | U S WEST TODAY. . . “If you previously received “grandfathered” concession in independent territory, you’ll continue to receive concession, unless you move your residence.” (1 page) |
| March 9, 1990 | U S WEST Communications | NEWS NUGGETS. . . <u>New Regional Concession Plan</u> . . . “Employees (active & retired) currently served by an independent company, presently receiving concession, will continue to receive concession. . . If they move, concession is terminated, unless they move back to a USWC served area.” (11 pages) |
| March 16, 1990 | Telephone Concession Staff U S WEST Communications | Dear 5 + 5 Retiree. . . “If you are served by an independent company and are currently receiving telephone concession, you will continue to receive this benefit until you move. If you move to a U S WEST Communications served area, you will retain your concession.” (1 page) |
| October 5, 1990 | Barbara L. Wilson, Vice President - Human Resources U S WEST Communications | Dear U S WEST Communications Retiree. . . “Our policy is to provide retirees with the benefits that they are entitled to at the time they retire and that is what you are currently receiving. . . Specific information regarding the enhancement of your concession will be made available to you once the programming is completed. At that time you will begin receiving 100% concession on your Local and IntraLATA service.” (1 page) |

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| Revised 10-1-91 | U S WEST Communications, Inc. | Regional Policy and Procedures No. 1207, Telephone Concession Plan Section 2, Retiree Plan – Retired January 1, 1990 and Forward (9 pages) |
| February 28, 1991 | Sherry L. Sherrill, Director Benefit Administration U S WEST Communications | Dear U S WEST Communications Retiree. . . “All retirees between 1-1-84 and 12-31-89 will now receive concession at 100% for local service and intraLATA toll regardless of the number of years of service they had at the time of their retirement.” (1 page) |
| August 30, 1993 | Eleanor Brown, Telephone Concession Supervisor U S WEST Communications, Inc. | Dear Retired Employee. . . “Effective on the October 1, 1993 pension check, telephone concession reimbursements will be included on the pension check” (3 pages) |
| March 1995 | U S WEST Communications | Dear Retiree. . . “As a retiree of U S WEST Communications (or Regulated Business Resources Inc. - BRI), you are entitled to 100% Local Service and 100% Intra Lata Toll. . . <u>Independent Company Served (and eligible for concession)</u> . . . The Telephone Concession Office will contact you with the procedures to follow to ensure you are reimbursed for your Local Service and Intra Lata Toll.” (1 page) |
| May 1, 1995 | Barbara Japha, Vice President, Human Resources, U S WEST Communications, Inc. | U S WEST COMMUNICATIONS, INC. Regional Policy and Procedures Transmittal Letter , RPP 1207, Telephone Concession Plan, Issue No. 95-01 Section 2, Retiree Plan – Retired January 1, 1990 and Forward (9 pages) |

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| June 1996 | U S WEST Communications | Dear Retiree. . .“As a employee retiring with a service pension from U S WEST Communications or Regulated Business Resources Inc. (BRI), you are entitled 100% concession on: Local Monthly Service Charges - U S WEST Intra-Lata Toll Charges. . . Local Monthly Service Provided By A Company <u>Other Than</u> U S WEST Communications: Call the U S WEST Independent Telephone Concession Office at 800-521-0503 to verify if you meet eligibility requirements.” (1 page) |
| June 10, 1996 | Omaha Pensioner Telephone Concession Office, U S WEST Communications | Dear Retiree. . . “Recently your local telephone exchange was sold by U S WEST Communications to an Independent Company. As a result, you must follow new procedures in order to continue receiving telephone concession benefits.” (2 pages) |
| July 1996 | Thomas G. Londgren, Esq., U S WEST Communications | Dear Employee/Retiree. . .“This responds to the questions you posed during the Public Hearings regarding the sale of rural exchanges on July 10, 1996. Your question as I understood it was: What happens to my concession benefit on local service and toll when the community I live in is sold? <u>The answer is:</u> If you retired pre-divestiture you are eligible for concession whether your monthly service is provided by U S WEST Communications or an Independent Company. If you are an active employee or retired post-divestiture, concession benefits on your independent service is protected (or grandfathered) until such time as a change of residence occurs within your existing Independent Company’s service area, or a change of residence occurs to another Independent Company service area. At that time, telephone concession with the Independent Telephone Company will cease. If the active employee or post-divestiture retiree again moves into an area where local monthly service is provided by U S WEST Communications, concession will be reinstated at that time.” (2 pages) |

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| 11-06-96 | U S WEST Communications | Customer Reference C - Concession Active Employees All States, Retired 1-1-90 and After All States, Retired Between 1-1-90 and 1-1-84 All States, Retired 1-1-84 and Before All States (42 pages) |
| December 18, 1996 | Omaha Pensioner Telephone Concession Office, U S WEST Communications | Dear Retiree. . . “Recently your local telephone exchange was sold by U S WEST Communications to an Independent Company. As a result, you must follow new procedures in order to continue receiving telephone concession benefits. . . Employees who retired 01-01-84 through current date (today) PLEASE NOTE: - PROTECTED (or grandfathered) TELEPHONE CONCESSION WILL CONTINUE TO BE ELIGIBLE UNTIL SUCH TIME AS: – a change of residence occurs within the existing Independent Telephone Company’s service area, or – a change of residence occurs to another Independent Telephone Company’s service area. At such time as one of these moves occur, telephone concession with the Independent Telephone Company will cease. – If the employee who retired 01-01-84 through the current date (today) again moves into an area where local monthly service is provided by U S WEST Communications, concession will be reinstated at that time.” (3 pages) |
| June 1, 1999 | U S WEST Communications | New By Fax Item No. 402 – <u>Telephone service discounts</u> (2 pages) |
| June 16, 1999 | U S WEST Communications | U S WEST Communications Regional Policy and Procedures RPP 1207 – Telephone Employee Discount/Automatic Payment Plan: Section 2 Retiree Plan – Retired 1/1/99 and Forward; Section 3 Retiree Plan – Retired Between January 1, 1990 and 12/31/98; Section 4 Retiree Plan – Retired Between January 1, 1984 and December 31, 1989; Section 5 Retiree Plan – Retired Prior to January 1, 1984; Section 6 Honoraries, Advisors and Officers (40 pages) |

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| December 10, 1999 | U S WEST Communications | U S WEST Communications Regional Policy and Procedures RPP 1207 – Telephone Employee Discount/Automatic Payment Plan: Section 2 Retiree Plan – Retired 1/1/99 and Forward (9 pages) |
| September 6, 2000 | Public Service Commission of Utah | Docket No. 99-049-65 <u>Report and Order</u> and <u>Stipulation to Approve Purchase and Sale of Various Exchanges</u> “U S WEST and the Buyers agree that no customers will be worse off as a result of the sales of Exchanges in this docket. This includes, without limitation, no negative impacts on any rates charged or the service quality provided to new or existing customers as a direct result of the sales of Exchanges in this docket.” (6 pages) |
| December 2000 | Qwest Communications International, Inc. | Frequently Asked Questions – What happens to employee and retiree concession for employees and retirees who live in the exchanges being sold? . . . In essence, their concession is grandfathered depending on the date of their retirement and the region in which they live.” (2 pages) |
| April 2001 | Omaha Pensioner Telephone Concession Office, U S WEST Communications | Dear Retiree. . . “Recently Qwest sold your local telephone exchange to an Independent Company. . . As a result, you must follow new procedures in order to continue receiving telephone concession benefits. . . Protection (or grandfathering) of Employee Discount reimbursement due to sale of exchange by Qwest to an Independent Company is contingent on <i>region retired from as well as retirement date</i> : (3 pages) |
| December 9, 2003 | Barry Allen, EVP and Chief Human Resources Officer, Qwest Communications International, Inc. | Dear Concession Participant. . . “the company has made the decision to no longer reimburse retirees and employees for services not provided by Qwest.” (1 page) |
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