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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
QWEST COMMUNICATIONS CORPORATION)	CASE NO. QCC-T-04-1
FOR AN AMENDMENT TO CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY NO.)	
402 TO PROVIDE LOCAL EXCHANGE)	COMMENTS OF THE
TELECOMMUNICATIONS SERVICES.)	COMMISSION STAFF
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, in response to Order No. 29496, the Notice of Application and Notice of Modified Procedure in Case No. QCC-T-04-1 issued on May 12, 2004, and submits the following comments.

BACKGROUND

On April 2, 2004, Qwest Communications Corporation (QCC) filed an Application for amendment of its Certificate of Public Convenience and Necessity. The Commission on September 3, 2002, approved Certificate No. 402 to QCC granting it authority to provide basic local exchange services within Verizon Northwest Inc.'s service area. QCC now seeks to amend its Certificate to enable it to provide local services throughout the State of Idaho, including within the service area of Qwest Corporation (QC). QCC asked that its Application be processed by Modified Procedure, and requested that the comment period be shortened to 14 days.

STAFF ANALYSIS

When Staff reviewed the original QCC application for a CPCN to provide competitive basic local exchange service it raised a number of questions about the possible consumer confusion that could develop with two “Qwests” (QCC the CLEC and QC the ILEC) competing for basic local exchange customers in the same marketplace. Staff felt there could be potential harm to the public interest from consumer confusion caused by the additional “competition” that QCC would add to the marketplace. At that time, QCC dealt with those concerns by amending its application to remove the QC service area from its application and the Commission approved that reduced service area. In this application, QCC seeks to have the QC service area added to the area in which it may provide basic local service.

Staff still has the same concerns that it raised with the original application. Staff believes that allowing two Qwests to actively compete in the same marketplace for the same products and customers may lead to consumer confusion. Therefore, Staff examined this application to determine the extent to which it would likely lead to such consumer confusion.


As originally submitted, this Application for an Amendment failed to clearly identify what services QCC intended to market and to which types of customers. The few services that were identified did not include any basic local exchange services for which a CPCN is required. Staff sought clarification of the Company’s intentions and the Company’s response indicated it did not intend to provide basic local exchange service to residential or small business customers in the near term. As this response indicated that no changes to its Certificate were necessary, Staff asked the Company to clarify the reason an amendment to the Company’s CPCN was needed. The Company responded with a letter from QC’s Director of Regulatory Affairs, clarifying that QCC did not intend to actively seek residential and small business customers at this time, but wanted the authority to serve some customers in relation to the large business markets to which it would be actively marketing its services on a regional or national basis. As a result of national marketing, QCC may have an opportunity to provide service to large customers with remote offices that would qualify as small businesses, and the Company stated that it needed the flexibility to be able to provide basic local exchange services to these customers under a single corporate entity if it was to effectively compete in the marketplace.

STAFF RECOMMENDATION

As clarified, QCC's intended operation will not involve two Qwest's actively competing in the same marketplace for the same customers with the same products. Staff believes the identified QCC operation will be sufficiently limited such that it will not lead to significant confusion for most basic local exchange customers. Staff recommends that the Commission monitor the performance of QCC and QC and if customer confusion becomes a problem, the Commission may take steps at that time to deal with it.

Staff recommends that the Commission approve QCCs Application for an Amendment to its CPCN to change the service area to include the entire State of Idaho.

Respectively submitted this 26th day of May 2004.



Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Wayne Hart


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 26TH DAY OF MARY 2004,
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN
CASE NO. QCC-T-04-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID,
TO THE FOLLOWING:

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