

Mary S. Hobson (ISB#2142)  
STOEL RIVES LLP  
101 S. Capitol Boulevard, Suite 1900  
Boise, ID 83702-5958  
Telephone: (208) 387-4277  
FAX: (208) 389-9040  
[mshobson@stoel.com](mailto:mshobson@stoel.com)

RECEIVED   
FILED   
2004 MAR 15 PM 4:53  
IDAHO PUBLIC  
UTILITIES COMMISSION

Adam L. Sherr (WSBA#25291)  
Qwest  
1600 7<sup>th</sup> Avenue - Room 3206  
Seattle, WA 98191  
Telephone: (206) 398-2507  
Facsimile: (206) 343-4040  
[adam.sherr@qwest.com](mailto:adam.sherr@qwest.com)

*Attorneys for Qwest Corporation*

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF QWEST  
CORPORATION'S (F/K/A/ U S WEST  
COMMUNICATIONS, INC.) FILING OF A  
STATEMENT OF GENERALLY  
AVAILABLE TERMS AND CONDITIONS  
PURSUANT TO 47 U.S.C. § 252(F)

WITHDRAWAL OF MODIFICATIONS TO  
SGAT AND EXHIBIT A RELATING TO  
THE FCC'S TRO

**Case No. QWE-T-03-24**

**QWEST CORPORATION'S MOTION  
TO WITHDRAW NOTICE OF  
UPDATED STATEMENT OF  
GENERALLY AVAILABLE TERMS  
AND CONDITIONS AND  
STATEMENT OF COMPLIANCE**

On February 17, 2004, Qwest Corporation ("Qwest") filed its *Notice of Updated Statement of Generally Available Terms and Conditions and Statement of Compliance* ("Updated SGAT") in the above captioned docket. Qwest now moves to withdraw its Updated SGAT for the reasons stated below.

**QWEST CORPORATION'S MOTION TO WITHDRAW NOTICE  
OF UPDATED STATEMENT OF GENERALLY AVAILABLE TERMS  
AND CONDITIONS AND STATEMENT OF COMPLIANCE --**

In addition to minor clarifications and certain changes reflecting agreements with CLECs, the Updated SGAT predominantly reflected changes responding to the decision of the Federal Communications Commission (FCC) in its Triennial Review Order.<sup>1</sup> As the Commission is aware, the Triennial Review Order was appealed by a number of parties. The case was heard by the United States Court of Appeals for the District of Columbia. On March 2, 2004, the Court of Appeals issued its decision,<sup>2</sup> which vacated the Triennial Review Order in part and remanded it in part. However, the Court stayed its decision for the longer of 60 days or until a petition for rehearing was denied.

This development directly affects Qwest's Updated SGAT filing in this case because, as noted, the proposed Updated SGAT was predominantly based on changes brought about by the Triennial Review Order. If the DC Circuit Court of Appeals Triennial Review Decision is not stayed, certain relevant portions of the Triennial Review Order upon which the Updated SGAT is based will be vacated on May 1, 2004. Such vacation would require Qwest to submit another SGAT based on the law in effect as of that date.

Representatives from several state utility commissions have expressed concern that, in light of the developments described above, the commissions may be required to review two SGATs in very short order. Qwest agrees that this is a possible and, indeed, likely scenario, based on the swiftness with which the DC Circuit Court of Appeals Triennial Review Decision was issued relative to the issuance of the Triennial Review Order.

---

<sup>1</sup> Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338 et al., FCC 03-227, 18 FCC Rcd 16978 (Aug. 21, 2003) (the "Triennial Review Order").

<sup>2</sup> *United States Telecom Association v. Federal Communications Commission and United States of America*, On Petitions for Writ of Mandamus and for Review of an Order of the Federal Communications Commission, Case No. 00-1012 ("DC Circuit Court of Appeals Triennial Review Decision").

In deference to these concerns, and in order to conserve its own resources, Qwest therefore moves to withdraw its Updated SGAT filed on February 17, 2004. In the event that the DC Circuit Court of Appeals Triennial Review Decision becomes effective on or soon after May 1, 2004, Qwest likely will file a new Updated SGAT, which will include the aforementioned miscellaneous changes and will be based on those portions of the Triennial Review Order undisturbed by the Court's decision. Should the DC Circuit Court of Appeals Triennial Review Decision be stayed for a period beyond May 1, 2004, Qwest reserves the right to re-submit the Updated SGAT, previously filed on February 17, 2004.

WHEREFORE, Qwest hereby moves for permission to withdraw its Notice of Updated Statement of Generally Available Terms and Conditions filed on February 17, 2004 in the above captioned docket.

RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of March, 2004.



Mary S. Hobson  
Stoel Rives LLP

Adam L. Sherr  
Qwest

*Attorneys for Qwest Corporation*

**QWEST CORPORATION'S MOTION TO WITHDRAW NOTICE**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of March, 2004, I served the foregoing **QWEST CORPORATION'S MOTION TO WITHDRAW NOTICE OF UPDATED STATEMENT OF GENERALLY AVAILABLE TERMS AND CONDITIONS AND STATEMENT OF COMPLIANCE** as follows:

Jean D. Jewell, Secretary  Hand Delivery  
Idaho Public Utilities Commission  U. S. Mail  
472 West Washington  Overnight Delivery  
P.O. Box 83720  Facsimile  
Boise, ID 83702  Email  
Telephone: (208) 334-0300  
Facsimile: (208) 334-3762  
[jjewell@puc.state.id.us](mailto:jjewell@puc.state.id.us)

Weldon Stutzman  Hand Delivery  
Deputy Attorney General  U. S. Mail  
Idaho Public Utilities Commission  Overnight Delivery  
472 West Washington  Facsimile  
P.O. Box 83720  Email  
Boise, ID 83702  
Telephone: (208) 334-0300  
Facsimile: (208) 334-3762

Dean J. Miller  Hand Delivery  
McDevitt & Miller LLP  U. S. Mail  
420 West Bannock Street  Overnight Delivery  
P.O. Box 2564 (83701)  Facsimile  
Boise, ID 83702  Email  
Telephone: (208) 343-7500  
Facsimile: (208) 336-6912  
[joe@mcdevitt-miller.com](mailto:joe@mcdevitt-miller.com)

  
Brandi L. Gearhart, PLS  
Legal Assistant to Mary S. Hobson  
Stoel Rives LLP