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Utilities Commission

May 26, 2006

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington  
Boise, ID 83702-5983

**RE: Docket No. QWE-T-06-06**

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **QWEST CORPORATION'S COMMENTS IN SUPPORT OF APPROVAL OF PAGING INTERCONNECTION AGREEMENT ON MODIFIED PROCEDURE**. If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,

  
Mary S. Hobson

Enclosures

cc: Service List

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Attorneys for Qwest Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<p><b>QWEST CORPORATION,</b></p> <p><b>Complainant,</b></p> <p><b>v.</b></p> <p><b>Mountain Communications, Inc. dba Earl's Distributing, Inc.; Gem State Communications, Inc. dba Idaho Communications; Idaho Mobile Telephone a/k/a Idaho Phone Service, Inc. a/k/a Idaho Mobilephone a/k/a Idaho Mobile Phone service, Inc.; JJC, Inc. dba Intermountain Communications; Radio Service Company; and Teton Communications, Inc.</b></p> <p><b>Respondents</b></p>	<p><b>Docket No. QWE-T-06-06</b></p>
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**QWEST CORPORATION'S COMMENTS IN SUPPORT OF APPROVAL OF  
PAGING INTERCONNECTION AGREEMENT ON MODIFIED PROCEDURE**

Qwest Corporation (Qwest) by and through its attorneys of record, and pursuant to the Commission's Order No. 30034, submits these Comments in Support of its Petition for approval of a paging interconnection between Qwest Corporation and Radio Service Company.

### **BACKGROUND**

Qwest filed its initial petition in this docket on March 17, 2006. At that time Qwest named six respondents including one wireless service provider and five paging companies. Radio Service Company of Burley, Idaho ("Radio Service") was named among the paging company respondents. The Type 1 and Type 2 paging interconnect agreement that Qwest proposed for adoption by the paging companies was attached to the that Qwest's petition as Exhibit B.

Subsequent to that initial filing, April 4, 2006 Qwest moved to dismiss Mountainland Communications, Inc. on the basis that that company had reached an agreement with Qwest that addressed the issues in the petition. Before the Commission acted on that Motion, Qwest filed an additional motion on April 12, 2006, seeking to dismiss Teton Communications, Inc, the sole wireless provider respondent, as well as another paging company, JJC, Inc. In addition, on April 12 Qwest also filed an amended petition, which removed the discussion of interconnection agreement for wireless providers and identified the remaining paging companies who had not yet reached an agreement with Qwest. JJC, Inc., which was the subject of the April 12, motion to dismiss, had been incorrectly identified as a Qwest paging provider customer. The amended petition removed JJC, Inc. and correctly identified Intermountain

Communications of Southern Idaho, Inc. as a paging provider who did not have an effective interconnection agreement with Qwest.

With the filing of the amended petition, therefore, Qwest sought the approval of a Type 1 and Type 2 interconnection agreement (in the form of Exhibit B to Qwest's initial petition) for four paging companies, including Radio Service. Thereafter, Qwest reached agreements with the other three paging provider respondents and individual motions for their dismissal were filed on April 21, May 2 and May 26, 2006.

Therefore at the present time this matter involves only Qwest and Radio Service.

### **DISCUSSION**

Qwest seeks this Commission's approval of an interconnection agreement between Qwest and Radio Service in the form of Exhibit B to its original petition (hereinafter "paging interconnection agreement"), so that Qwest can comply with the FCC's T-Mobile Order.<sup>1</sup> The FCC issued that order in response to a petition for declaratory ruling from wireless carriers submitted as part of the NPRM on Intercarrier Compensation.<sup>2</sup> The petitioners asked the FCC to find that wireless termination tariffs are unlawful.

In the *T-Mobile Order*, the FCC declined to find that wireless termination tariffs were unlawful. However, the FCC did decide to change the rules that would apply going forward to make clear its preference for contractual arrangements. Following entry of the *T-Mobile Order* ILECs such as Qwest are prohibited from imposing compensation

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<sup>1</sup> See *In the Matter of Developing a Unified Intercarrier Compensation Regime, T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, CC Docket No. 01-92, Declaratory Ruling and Report and Order*, FCC 05-42 (Released February 24, 2005) ("*T-Mobile Order*").

<sup>2</sup> See *T-Mobile USA, Inc. et al. Petition for Declaratory Ruling: Lawfulness of Incumbent Local Exchange Carrier Wireless Termination Tariffs*, CC Docket Nos. 01-92, 950185, 96-98, Petition of T-Mobile, et al. (Filed September 6, 2002) ("*T-Mobile Petition*").

obligations for non-access Commercial Mobile Radio Service (“CMRS”) traffic pursuant to tariffs.<sup>3</sup> The FCC also clarified that not only are ILECs obligated under section 252 of the Telecommunications Act of 1996 (“the Act”) to negotiate interconnection agreements, ILECs may also request interconnection from a CMRS provider, and may invoke the negotiation and arbitration procedures set forth in section 252 of the Act. The order also established state-Commission ordered rates as the applicable interim rates to apply once the ILEC begins the negotiation process.

In response to the FCC’s order, Qwest implemented the interim rates approved by the *T-Mobile Order*. Qwest also initiated negotiations with the category of customers that included Radio Service by correspondence dated May 3, 2005.<sup>4</sup> In addition, Qwest withdrew its tariffs, catalogs and price lists for wireless termination service. In Idaho, Qwest filed to withdraw its catalog on January 6, 2006. The withdrawal became effective on January 16, 2006 pursuant to the terms of Idaho Code §62-606.

Radio Service, among others, did not respond to Qwest’s initial request for negotiations. Qwest then sent a second request for negotiations on October 11, 2005. As an accommodation to the carriers that did not answer Qwest’s first request, Qwest noted in this second letter that it had reset the time period for negotiations, so that the window for requesting arbitration would open on February 22, 2006 (the 135<sup>th</sup> day after October 11, 2005), and would close on March 19, 2006 (the 160<sup>th</sup> day).<sup>5</sup> Qwest notified the

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<sup>3</sup> *T-Mobile Order* at II 9.

<sup>4</sup> A copy of that correspondence is attached as Exhibit C to Qwest’s original petition.

<sup>5</sup> A copy of the second letter is attached as Exhibit D to Qwest’s original petition.

Commission of its attempts to initiate negotiations with by letter dated December 2, 2005.<sup>6</sup>

Some carriers, including Radio Service, did not respond to Qwest's second request to negotiation. Consequently, Qwest sent a third request for negotiations on January 13, 2006 (for paging providers) and February 2, 2006 (for wireless providers).<sup>7</sup> These requests for negotiations also included a reference to the website address where the current template agreement(s) could be located. Qwest sent yet another request to wireless and paging carriers on February 21, 2006.<sup>8</sup> This request also included a reference to the website address for the current template agreement. Qwest followed up on these email notices with telephone calls to those companies for whom a contact and telephone number were available.

Qwest conducted teleconference negotiation sessions on November 16, 30 and December 7, 2005 with paging providers. Qwest made several changes and updated the negotiation template agreement in response to concerns raised by the providers attending those sessions. The paging interconnection agreement offered in this case reflects these changes.

Following the filing of the petition in this case, Qwest served named respondents as shown on its Certificate of Service with the Petition, the proposed paging interconnection agreement, and subsequent motions. As indicated in the "Background"

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<sup>6</sup> A copy of Qwest's notice to the Commission is attached as Exhibit E to Qwest's original petition.

<sup>7</sup> Copies of those requests are attached as Exhibits F and G respectively to Qwest's original petition. Exhibit F, of course, is the notice that remains relevant to the pending issues with Radio Service.

<sup>8</sup> A copy of that request is attached as Exhibit H to Qwest's original petition.

section of these comments, one wireless and four other paging companies have now entered interconnection agreements with Qwest. Only Radio Service has failed to respond. Radio Service has not raised any disputed issues or disagreements with the proposed paging interconnection agreement with Qwest.

Under Section 251 of the Act, each telecommunications carrier had the duty to interconnect directly or indirectly with other telecommunications carriers. ILECs such as Qwest also have the duty to negotiate in good faith the terms and conditions of such interconnection. Qwest has made significant efforts to negotiate the terms of the paging interconnection agreement with all carriers including Radio Service. Many carriers have signed the agreement and none has raised issues concerning its terms. No carrier has raised any concerns that the rates under the template paging interconnection agreement are not just and reasonable. The proposed agreement does not discriminate against any carrier; it contains the same terms and conditions that have been offered to other Type 1 Paging Carriers in Idaho. Furthermore, the proposed paging interconnection agreement is consistent with the public interest, convenience and necessity, and the terms of the agreement meet the requirements of section 251 of the Act.

Because Radio Service has not responded to Qwest's efforts to negotiate a paging interconnection agreement, Qwest asks that the Commission issue an order adopting and approving the proposed paging interconnection agreement between Qwest and Radio Service. This template agreement is non-discriminatory and is consistent with the *T-Mobile Order*, as well as the Act and relevant law.

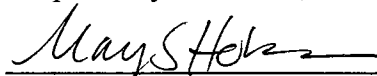
Absent either an approved interconnection agreement or effective tariff/catalog provisions, Qwest will be forced to discontinue service to Radio Service. Qwest seeks to avoid such drastic measures by seeking this Commission's approval of its template paging interconnection agreement with Radio Service.

### CONCLUSION

In order to comply with the FCC's *T-Mobile Order*, Qwest has withdrawn its catalog provisions for termination of non-access wireless traffic. Qwest has made every effort to engage in negotiations of new interconnection agreements with Radio Service, so that Qwest may continue to terminate non-access wireless traffic for this company. Qwest asks this Commission to approve the template paging interconnection agreement with Radio Service, so that Qwest will not be forced to discontinue service to these carriers.

Dated this 26th day of May, 2006.

Respectfully submitted,



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Attorneys for Qwest Corporation



**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing **QWEST CORPORATION'S**

**COMMENTS IN SUPPORT OF APPROVAL OF PAGING INTERCONNECTION**

**AGREEMENT ON MODIFIED PROCEDURE** was served on the 26<sup>th</sup> day of May, 2006 on the

following individuals:

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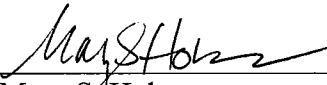
Hand Delivery  
 U. S. Mail  
 Overnight Delivery  
 Facsimile  
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