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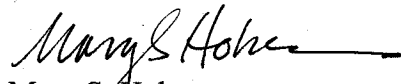
Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

RE: Docket No. QWE-T-08-04

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **QWEST CORPORATION'S PETITION FOR WITHDRAWAL OF ITS STATEMENT OF GENERALLY AVAILABLE TERMS AND CONDITIONS**. If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,


Mary S. Hobson

Enclosures

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<p>In Re WITHDRAWAL of QWEST CORPORATION'S STATEMENT OF GENERALLY AVAILABLE TERMS AND CONDITIONS</p>	<p>Case No. QWE-T-08-04</p> <p>PETITION of QWEST CORPORATION</p>
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Qwest Corporation ("Qwest"), by and through its undersigned attorneys, petitions the Idaho Public Utilities Commission ("Commission") for permission to withdraw its Statement of Generally Available Terms and Conditions (SGAT) and accompanying exhibits on the grounds that it SGAT is superfluous, has become outdated due to changes in applicable law, has not been used as the interconnection contract template in Idaho for some time, and has not been updated since August 2004, as fully described below. Qwest

further seeks a determination that the Performance Indicator Definitions (PIDs) and Performance Assurance Plan (PAP), voluntarily offered by Qwest, are no longer necessary and can be removed.

INTRODUCTION

1. Qwest is a Colorado corporation whose principal place of business in Idaho is Boise. Qwest is the successor corporation to U S West Communications, Inc., which provided telecommunications services in Idaho pursuant to Titles 61 and 62, Idaho Code. Presently Qwest provides retail telecommunications services in Idaho under Title 62, Idaho Code. For convenience, both Qwest and its predecessor shall be referred to as "Qwest" in these proceedings.

2. Under the federal Telecommunications Act of 1996 ("1996 Act" or "the Act") Qwest is a Bell Operating Company ("BOC") as defined in 47 U.S.C. § 153 (35) and operates as an "incumbent local exchange carrier" ("ILEC") as defined in section 251(h) of the 1996 Act. 47 U.S.C. § 251(h).

3. Pursuant to the 1996 Act, ILECs such as Qwest are required to enter into interconnection agreements with other providers of telecommunications services who request access to its network, facilities or services. *See* 47 U.S.C. §§ 251-252.

4. The 1996 Act also provided a means by which BOCs like Qwest could gain entry into certain telecommunications markets, known as the in-region interLATA services markets, from which they had been legally precluded. 47 U.S.C. § 271. Proceedings by which BOCs sought regulatory approval for this market entry ("interLATA freedoms") were termed "271 proceedings" and the path these proceedings took through state and federal regulatory tribunals is often referred to as "the 271 process." As part of the 271 process, state regulatory bodies such as this Commission were to consult with the Federal Communications Commission ("FCC") as to whether a particular BOC had met the standards set out in section 271. 47 U.S.C. § 271 (d) (2) (B).

5. The Idaho Legislature in 1997 enacted Idaho Code § 62-615 (1), which granted the Commission "full power and authority" to implement the 1996 Act.

JURISDICTION

6. The Commission has jurisdiction over this matter under section 615, Title 62, Idaho Code.

QWEST'S SGAT

7. After the passage of the 1996 Act, Qwest in Idaho was actively engaged in taking all steps necessary to comply with the Act and to successfully complete the requirements for entry into the in-region, interLATA service markets through the 271 process.

8. Among these activities, Qwest negotiated numerous interconnection agreements with competitive local exchange carriers (CLECs). Said agreements were subsequently submitted to the Commission for approval pursuant to section 252(e) of the 1996 Act.

9. At the time Qwest began its effort to obtain 271 relief, it elected to obtain state approval using a collaborative workshop process to explore and resolve the literally hundreds of issues relating to specific provisions of Qwest's proposed SGAT. In the 271 collaborative workshop process Qwest, CLECs, and commission staff members worked through proposed contract language that would serve to implement the section 271 requirements as they were developed. Where the parties could not come to agreement by themselves, competing language was submitted to the workshop arbitrator, John Antonuk, for decision. At the time, the SGAT was the document that provided a single, common vehicle for these collaborative workshops with CLECs and state commissions to assure Qwest's agreements met the section 271 checklist requirements

10. Qwest filed its original SGAT on June 9, 2000, and, as a result of the collaborative workshop process, multiple revisions were made to the Idaho SGAT. The most current version of the SGAT is the "3rd Revised SGAT" filed July 25, 2002.

11. The SGAT also served as a guide for the terms Qwest would make available to CLECs to align with the requirements of the 1996 Act and provided a template for Qwest's interconnection agreements between mid-2000 and August 2004.

The first interconnection agreement based on the SGAT was signed by the parties in December 2001, and approved by the Commission on February 26, 2002.

12. On June 6, 2002, the Commission entered its “Final Decision on Qwest’s Corporation’s Compliance with Section 271” stating that it was prepared, when consulted by the FCC, to advise that Qwest had adequately addressed the section 271 requirements. The FCC approved Qwest’s application for market entry through the 271 process on December 23, 2002.¹

13. During this period the Idaho SGAT provided a template for numerous interconnection agreements between Qwest and CLECs. However, subsequent to August 2004, Qwest no longer offered its SGAT as an option for interconnection agreements with CLECs in Idaho.

14. Since August, 2004, CLECs in Idaho have nevertheless entered into seventeen (17) interconnection agreements, all of which were subsequently filed with the Commission and approved.

SGAT DISCUSSION

Part One—Qwest’s 271 Approval Did Not Rely on the SGAT

15. Despite the utility of the SGAT as a reference for the provisions incorporated during the collaborative workshop phase of the 271 process, the SGAT itself was not the basis for Qwest’s successful multi-state section 271 application to the FCC.

16. The 1996 Act provides two paths by which BOCs could seek approval to enter new markets:

- 271(c)(1)(A) provides that “A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network

¹ *Application by Qwest Communications International, Inc. for Authorization to Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, WC Docket No. 02-314, Memorandum Opinion and Order, 17 FCC Rcd 26303 (2002).

facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service....”

- 271(c)(1)(B) provides that “A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A)...and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f).”

The path provided under subsection 271(c)(1)(A) is known as “Track A,” while that provided under subsection 271(c)(1)(B) is referred to as “Track B.”

17. In its Order approving Qwest’s request for 271 approval, the FCC noted at paragraph 20:

In order for the Commission to approve a BOC's application [for market freedom under section 271], the BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B). To meet the requirements of Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers." In addition, the Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier." The Commission has concluded that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers, and that unbundled network elements are a competing provider's "own telephone exchange service facilities" for purposes of section 271(c)(1)(A). The Commission has further held that a BOC must show that at least one "competing provider" constitutes "an actual commercial alternative to the BOC," which a BOC can do by demonstrating that the provider serves "more than a de minimis number" of subscribers. The Commission has held that Track A does not require any particular level of market penetration, and the D.C.

Circuit has affirmed that the Act "imposes no volume requirements for satisfaction of Track A. (footnotes omitted)

18. In requesting relief under section 271 in Idaho, Qwest followed the Track A path, relying on the binding agreements it had with CLECs that had been approved by the Commission under section 252 of the 1996 Act. It did not rely on its SGAT or pursue the Track B alternative. On April 19, 2002, the Commission issued its decision on Qwest's compliance with the Track A, finding "that Qwest satisfies the Track A requirements." (Idaho PUC Decision Regarding Track A, Public Interest and 272 at 7)

19. The FCC, in its Memorandum and Order approving Qwest's 271 application stated, "We conclude, as did the state commissions, that Qwest satisfies the requirements of Track A." (Paragraph 21, FCC 02-332, adopted December 20, 2002).

Part Two—The SGAT Is Not Necessary for Qwest to Meet Its 251 Obligations

20. Section 251 of the 1996 Act requires that Qwest enter into interconnection agreements with other providers of telecommunications services who request access to its network, facilities or services. However, neither section 251 nor any other part of the Act require an SGAT.

21. Rather, the 1996 Act provides that an SGAT is optional:

A Bell operating company *may* prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251. . .

47 U.S.C. § 252 (f)(1) (emphasis added)

22. No provision of the 1996 Act requires an SGAT be in place or maintained. In finding compliance with the 1996 Act requirements, the FCC demonstrated it was not concerned whether a BOC presented an overarching SGAT or wholesale tariff encapsulating all of its section 251 obligations. For example, in Maine CLECs attempted to argue that the lack of a SGAT or tariff precluded a finding that Verizon was meeting its section 251 obligations. The FCC, however, looked at the multiple interconnection agreements Verizon had entered into with Maine CLECs and the ability of other CLECs

to opt into said agreements as evidence of continuing section 251 compliance.² The FCC paid particular emphasis to the fact that section 252(f)(1) states that a BOC “may” file a SGAT, not that it has to file one.³

23. Furthermore, Qwest is not required to continue to make the SGAT available simply because it was the basis of previously approved interconnection agreements. Even though the SGAT has not been available for opt-in since August 2004, CLECs in Idaho have entered into 17 interconnection agreements since Qwest stopped allowing opt-in to its SGAT. All 17 of those agreements were approved by this Commission. Given this experience with interconnection agreements in Idaho, it is evident that Qwest is meeting its obligation to negotiate interconnection agreements with those wishing to interconnect. The fact that Qwest continues to maintain multiple interconnection agreements in Idaho coupled with the rights of those CLECs under section 252(i) demonstrates, that Qwest continues to meet its section 251 requirements.

24. To facilitate the process of entering into an interconnection agreement, Qwest makes available a “template” interconnection agreement (“Template Agreement”). The Template Agreement serves as Qwest’s initial offer to CLECs and can be adopted as their interconnection agreement. Although the Template Agreement initially used the language from the SGAT, unlike the SGAT, it has continued to evolve. Today’s Template Agreement not only reflects the current state of the law, but has been modified to be more consistent in its language across the fourteen states in which Qwest operates as a BOC. These “consistency” modifications were made with the encouragement of CLECs who operated in multiple states and Qwest operations people who were applying contractual requirements in diverse locations. In those instances where a specific state commission has ordered substantive deviation from the language and intent of other states, Qwest has preserved those state-specific modifications as part of the Template Agreement offer for that particular state. Eight of the seventeen interconnection

² *In the Matter of Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services In Maine*, CC Docket No. 02-61, 17 FCC Rcd 11659, 11687-11688 (June 19, 2002)

³ *Id.* At 11688, n. 185

agreements approved by this Commission since August 2004 were based on the Template Agreement for Idaho.

25. As Qwest's initial offer, if the Template Agreement does not meet all of a CLECs business needs, it serves as a starting point for subsequent negotiations and, if necessary, arbitrations, of interconnection agreements that are ultimately submitted to a state commission for approval.

26. In addition, CLECs may opt-in to existing agreements between Qwest and other carriers that have been recently negotiated or arbitrated and approved by the Commission under its section 252 authority.

27. The absence of an SGAT in no way diminishes the Commission's role in overseeing and approving the terms and conditions of section 252 agreements. Qwest submits every agreement containing 251 terms (including rates associated with those products and services) to the Commission for review and approval pursuant to the requirements of section 252.

28. As a final safeguard, the Commission maintains its authority to serve as arbitrator and to render the final decisions on disputed interconnection agreement terms and conditions between Qwest and CLECs. The Commission also maintains its authority to reject any agreement or amendment if: a) it is found to discriminate against a telecommunications carrier not a party to the agreement; b) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity; or, c) the agreement does not meet the requirements of section 251.

QWEST'S PIDs and PAP

Part One—Origin of the PIDs and PAP

29. At the onset of the 271 process, the focus was on implementing wireline competition. One critical element of that implementation was assuring the BOCs provided quality service to the competitors to whom they provided interconnection and other products and services used in their CLEC operations. In particular CLECs sought assurance that service quality would be maintained once the BOCs received 271 approval and re-entered the interLATA service markets.

