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IDAHO PUBLIC  
UTILITIES COMMISSION

September 10, 2009

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

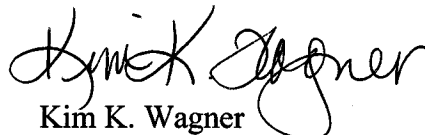
*Via Email: [jean.jewell@puc.idaho.gov](mailto:jean.jewell@puc.idaho.gov)  
and Via Overnight Delivery*

Re: In the matter of the Petition of Qwest corporation Requesting Authorization to  
Withdraw its Statement of Generally Available Terms and Conditions  
Docket No. QWE-T-08-04

Dear Ms. Jewell:

Enclosed for filing are the original and seven copies of the Reply Comments of  
Integra Telecom in connection with the above-referenced matter. Also enclosed is a  
Certificate of Service.

Sincerely,



Kim K. Wagner  
Legal and Regulatory Administrator  
Integra Telecom  
763-745-8468 (Direct)  
763-745-8459 (Dept. Fax)  
[Kim.Wagner@integratelecom.com](mailto:Kim.Wagner@integratelecom.com)

Enclosures

cc: See Attached Certificate of Service

**CERTIFICATE OF SERVICE**

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I do hereby certify that a true and correct copy of the foregoing Reply Comments of Integra Telecom was served on the 10th day of September, 2009 on the following individuals:

IDAHO PUBLIC UTILITIES COMMISSION

**Via E-mail and Overnight Mail**

Jean D. Jewell  
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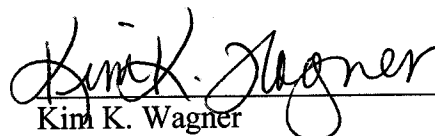
**Via E-mail and U.S. Mail**

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**Via E-mail and U.S. Mail**

Greg Rogers  
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1025 Eldorado Boulevard  
Broomfield, CO 80021

Dated: September 10, 2009.



Kim K. Wagner

Legal and Regulatory Administrator

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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IN THE MATTER OF THE PETITION OF )  
QWEST CORPORATION REQUESTING )  
AUTHORIZATION TO WITHDRAW ITS )  
STATEMENT OF GENERALLY )  
AVAILABLE TERMS AND CONDITIONS )  
 )

CASE NO. QWE-T-08-04 )  
REPLY COMMENTS OF )  
INTEGRA TELECOM )

2009 SEP 11 AM 9:05  
IDAHO PUBLIC UTILITIES COMMISSION

Integra Telecom of Idaho, Inc.; Electric Lightwave, LLC dba Integra Telecom; and Eschelon Telecom, Inc. dba Integra Telecom (collectively referred to as "Integra")<sup>1</sup> respectfully submits these comments in reply to Qwest's Comments filed August 14, 2009.<sup>2</sup>

**Introduction**

Integra is a facilities-based competitive local exchange carrier ("CLEC") that provides integrated voice and data communications services to small and medium-sized businesses in 13 western states, including Idaho. Integra relies extensively on unbundled network elements ("UNEs") purchased from Qwest.<sup>3</sup> Integra combines these network elements purchased from Qwest with Integra's own facilities in order to serve its end user customers. In almost all cases where Integra purchases unbundled facilities from Qwest, there are no wholesale alternatives to the Qwest network. As a result, the service quality of facilities purchased from Qwest has a direct impact on the service quality Integra is able to provide to its customers and is therefore essential to Integra's success in the telecommunications market.

Qwest is not only Integra's largest wholesale provider of network facilities, but also Qwest is Integra's largest competitor. Qwest's dichotomous role as the predominate provider of both wholesale and retail services makes service quality standards, which in many cases are parity with Qwest's retail performance, essential to assure Qwest does not leverage its position to eliminate competitors such as Integra from the market.

Qwest's most recent proposal Qwest Performance Assurance Plan - 2 ("QPAP-2") to render wholesale service quality standards meaningless<sup>4</sup> is ill-timed<sup>5</sup> and unacceptable. Qwest's

<sup>1</sup> Electric Lightwave, LLC dba Integra Telecom ("ELI") currently serves customers in Idaho and is currently negotiating a new interconnection agreement ("ICA") with Qwest.  
<sup>2</sup> Comments of Qwest Corporation, In Re Withdrawal of Qwest Corporation's Statement of Generally Available Terms and Conditions, Case No. QWE-T-08-04, August 14, 2009 ("Qwest's PAP Comments").  
<sup>3</sup> This is true of CLECs in general that serve business customers. See, for example, Comments of Colorado Public Utilities Commission, In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160(c) in the Denver, Colorado Metropolitan Statistical Area, WC Docket No. 07-97, August 31, 2007 ("Commission Forbearance Comments"), pp. 28-29.  
<sup>4</sup> Qwest's refers to its new proposal as Qwest Performance Assurance Plan - 2 ("QPAP-2"). See Qwest's PAP Comments, pp. 28-33 and Attachment B to those comments. Integra uses Qwest's term only as a reference device, so common terminology is used. Integra disagrees that Qwest's proposal assures performance and, therefore, the proposal should not substantively be considered as a "QPAP."

proposal eliminates most performance measures, significantly reduces the products considered with each measure, substantially weakens the standards to which Qwest is held accountable, eviscerates accountability in instances when Qwest fails to meet its proposed weakened standards, and reduces the reporting of substandard behavior from monthly<sup>6</sup> to quarterly.<sup>7</sup> Qwest's proposed QPAP-2 sets the service quality bar so low as to essentially eliminate wholesale service quality obligations entirely.

***The QPAP Continues to be Necessary for a Successful Competitive Market***

Qwest argues that the Idaho Qwest Performance Assurance Plan ("QPAP" or "PAP") has "fulfilled its purpose,"<sup>8</sup> but provides no evidence that this is the case, instead argues that the QPAP document itself does not contain a stated purpose;<sup>9</sup> the QPAP was not a requirement of the FCC;<sup>10</sup> Qwest voluntarily agreed to the QPAP;<sup>11</sup> there is no indication that any party believed QPAP would be in place indefinitely;<sup>12</sup> and that though PAPs were "pro-competitive measures,"<sup>13</sup> they are no longer necessary since "Qwest and the CLECs are aligned in their competitive battle with cable and wireless competitors..."<sup>14</sup> None of these statements demonstrate that the QPAP is no longer necessary. In fact, Qwest's claims are contrary to the recent comments of Commissions in the Qwest region in response to Qwest's request for UNE forbearance.<sup>15</sup> For example, the Colorado Commission recognized that Qwest has a "virtual

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<sup>5</sup> As Qwest obtains greater deregulation in its retail markets, the importance of Qwest's PAP grows in order to ensure Qwest is not able to leverage its dichotomous role as the predominate provider of both wholesale and retail services.

<sup>6</sup> QPAP Documentation, § 14.1.

<sup>7</sup> Qwest's Proposed QPAP-2, § 3.2.

<sup>8</sup> Qwest PAP Comments, p. 19.

<sup>9</sup> Qwest PAP Comments, p. 18.

<sup>10</sup> Qwest PAP Comments, pp. 2-3.

<sup>11</sup> Qwest PAP Comments, pp. 4-5.

<sup>12</sup> Qwest PAP Comments, p. 3.

<sup>13</sup> Qwest PAP Comments, p. 3.

<sup>14</sup> Qwest PAP Comments, p. 26.

<sup>15</sup> Comments of the Colorado Public Utilities Commission, In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160(c) in the Denver, Colorado, Minneapolis-St. Paul, Minnesota, Seattle, Washington and Phoenix, Arizona Metropolitan Statistical Areas, WC Docket No. 07-97, August 31, 2007 ("Colorado Commission Forbearance Comments"); Initial comments of the Arizona Corporation Commission, In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160(c) in the Denver, Colorado, Minneapolis-St. Paul, Minnesota, Seattle, Washington and Phoenix, Arizona Metropolitan Statistical Areas, WC Docket No. 07-97, August 31, 2007; Comments of the Washington Utilities and Transportation Commission, In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160(c) in the Denver, Colorado, Minneapolis-St. Paul, Minnesota, Seattle, Washington and Phoenix, Arizona Metropolitan Statistical Areas, WC Docket No. 07-97, August 31, 2007; and Ex Parte Comments of the Minnesota Public Utilities Commission, In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160(c) in the Denver, Colorado, Minneapolis-St. Paul, Minnesota, Seattle, Washington and Phoenix, Arizona Metropolitan Statistical Areas, WC Docket No. 07-97, February 8, 2008.

monopoly in the wholesale market”<sup>16</sup> and that barriers to entry in the market are as formidable today as they were in 1996.<sup>17</sup> As a result, the Colorado Commission determined that UNEs are a “necessary cog to cultivate competition”<sup>18</sup> and urged the FCC to take a granular approach in reviewing Qwest’s request,<sup>19</sup> a request that Qwest subsequently withdrew. The Colorado Commission concluded that “eliminating the unbundling requirement cannot have the effect of increasing competition, but rather may in fact threaten the existence of many of the competitive alternatives available to business customers served by CLECs in the current environment.”<sup>20</sup> These conclusions are similar to those reached by the other state Commissions where Qwest sought UNE forbearance and are consistent with the conclusion reached in the Liberty Consulting Report, which found that the Performance Assurance Plan (“PAP”), a crucial component of UNEs, is essential to telecommunications competition in Idaho and the Qwest region.<sup>21</sup>

The FCC views “the existence of a satisfactory performance monitoring and enforcement mechanism... as probative evidence that the BOC will continue to meet its section 271 obligations after a grant of such authority.”<sup>22</sup> Further, the FCC concluded that the QPAP provides “assurance that the local market will remain open after Qwest receives section 271 authorization...”<sup>23</sup>

The PAP was designed to address service quality issues; protect CLEC customers; provide mechanisms protecting Qwest’s interests while recognizing the benefit to Qwest of gaining 271 authority; and save time and resources of all parties, including the Commission and Commission staff.

In light of the regulatory changes taking place to both the retail and wholesale telecommunications markets in Idaho, the importance of the QPAP is greater today than ever before. As this Commission is aware, the FCC’s decisions in its triennial review of section 251 unbundling obligations has eliminated obligations of Qwest and other RBOCs to provide certain wholesale services to CLECs at forward-looking economic cost.<sup>24</sup> These reduced obligations

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<sup>16</sup> Colorado Commission Forbearance Comments, p. 17.

<sup>17</sup> Colorado Commission Forbearance Comments, p. 9.

<sup>18</sup> Colorado Commission Forbearance Comments, p. 32.

<sup>19</sup> Colorado Commission Forbearance Comments, p. 33.

<sup>20</sup> Colorado Commission Forbearance Comments, p. 32.

<sup>21</sup> Analysis of Qwest’s Performance Assurance Plans Final Report, Prepared for: The Qwest Regional Oversight Committee, by Liberty Consulting Group, June 30, 2009 (“Liberty Consulting Report”), p. 4.

<sup>22</sup> *Memorandum Opinion and Order*, In the Matter of 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, Adopted December 20, 2002, ¶ 440.

<sup>23</sup> *Id.* ¶ 440

<sup>24</sup> See *Report and Order and Order on Remand and Futher Notice of Proposed Rulemaking*, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 01-338, 96-98 and 98-147, released August 21, 2003 (“TRO order”) and, *Order on Remand*, In the Matter of Unbundled Access to Network Elements; and Review of the Section 251 Unbundling Obligations of

include high capacity loops in some Qwest central offices along with certain dedicated transport routes between Qwest offices. Where a CLEC can no longer purchase or access unbundled facilities from Qwest, Qwest has indicated that the protections of the QPAP surrounding these facilities would no longer apply.

In addition the FCC's *TRRO order* eliminated the availability of UNE-P effective March 11, 2006. As a result, most CLECs have opted into Qwest's commercial UNE-P replacement offering called QPP. This agreement specifically calls for the elimination of protections provided to CLECs – and the payments paid by Qwest -- under the QPAP relating to UNE-P like services.<sup>25</sup>

Though significant protections afforded by the QPAP remain, the plan has clearly weakened in the light of regulatory changes surrounding the *TRO and TRRO orders* by the FCC. This, in combination with regulatory relief on Qwest retail services, increases Qwest's incentives to exploit its position as the primary wholesale provider to its competitors in order to gain advantage in the market place. This increased incentive to behave in a competitively unfair manner is why the QPAP is even more crucial today than it ever has been.

The Colorado Commission staff came to similar conclusions as part of the PAP docket in Colorado where Qwest made similar arguments as it has made in Idaho. The Commission staff noted, “Qwest’s position is summed up in the first sentence of its initial comments as follows: ‘The CPAP has fulfilled its purpose, and there remains no basis in law or regulation for this Commission to mandate its continued existence.’ Staff’s position is pretty much the opposite and can be summed up as follows: The CPAP continues to serve its intended purpose and the Commission has the legal authority and regulatory basis upon which to order its continuation.”<sup>26</sup>

The PAP and associated Performance Indicator Definitions (“PIDs”) are particularly essential because the expense of filing a Commission complaint for each individual service quality problem would greatly exceed the cost of the particular individual problem, while the cumulative significant adverse affect of poor service quality would be harmful to CLECs and competition. Therefore, the expense of litigating individual issues deters a CLEC’s ability to obtain a remedy for those Qwest service quality problems. The self-executing nature of remedies in the plan was one factor that the FCC relied upon to address this problem and ensure an open local market.<sup>27</sup>

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Incumbent Local Exchange Carriers, WC Docket No. 04-313 and CC Docket No. 01-338, released February 4, 2005 (“*TRRO order*”).

<sup>25</sup> See Qwest's Master Services Agreement for QPP section 4.6, [http://www.qwest.com/wholesale/downloads/2005/050504/QPPMSATemplateV3\\_042605Final.doc](http://www.qwest.com/wholesale/downloads/2005/050504/QPPMSATemplateV3_042605Final.doc).

<sup>26</sup> Staff of the commission’s Reply Comments on the Six-Year Review Report, In the Matter of Qwest Corporation’s Colorado Performance Assurance Plan, Docket No. 02M-259T, August 24, 2009, (“Colorado Commission Staff Comments”), p. 2.

<sup>27</sup> *Memorandum Opinion and Order*, In the Matter of 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, Adopted December 20, 2002, ¶ 442 (“FCC 271 Approval Order”).

