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PHIL R. CEGUERA
Paralegal

January 24, 2001

VIA FEDERAL EXPRESS

Arizona Corporation Commission
Docket Control-Utilities Division
1200 West Washington Street
Phoenix, AZ 85007-2996

Re: *US WEST Communications Section 271 Application*
Docket No. T-000000A-97-0238

Dear Sir or Madam:

Enclosed for filing are the original and ten (10) copies of the redacted version of Covad Communications Company's Initial Comments Regarding Emerging Services.

Please feel free to call with any questions.

Thank you for your assistance.

Sincerely yours,

Phil R. Ceguera
Enclosures

cc: Service List

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH SECTION 271 OF
THE TELECOMMUNICATIONS ACT
OF 1996

DOCKET NO. T-00000A-97-0238

**INITIAL COMMENTS OF COVAD COMMUNICATIONS COMPANY
REGARDING EMERGING SERVICES**

Covad Communications Company ("Covad") hereby submits these comments in advance of the follow-up workshop on Emerging Services scheduled for January 29, 2001 through February 2, 2001. These comments address issues with Qwest Corporation's ("Qwest") present performance that demonstrate Qwest's failure to satisfy the requirements of Section 271 of the Telecommunications Act of 1996 ("the Act"). Covad also addresses some of its preliminary concerns with Qwest's proposed SGAT language. It is Covad's understanding that changes to the SGAT have been agreed to in other jurisdictions, but have not yet been incorporated into updated Arizona SGAT language. Covad anticipates that Qwest will provide an updated SGAT prior to/or at the next workshop. Covad, therefore, anticipates raising the majority of its concerns regarding SGAT language on the record, rather than in these pre-filed comments. The

Affidavit of Michael Zulevic, Director, Network Deployment, attesting to the facts contained herein is attached hereto as Exhibit A.

I. INTRODUCTION

In order to grant Qwest's application to provide interLATA long distance service, this Commission must find that Qwest is complying with the Act, which requires, among other things, that Qwest provide nondiscriminatory access to network elements.

Telecommunications Act of 1996, § 271(a)(2)(B)(ii). The burden rests squarely upon Qwest's shoulders to prove actual and present compliance with the statutory conditions for entry, including all 14 competitive checklist items.¹ Covad submits that Qwest has thus far failed to demonstrate the requisite compliance.

II. LINE SHARING CONCERNS

Although Covad commends Qwest generally for its initial efforts to negotiate a line-sharing agreement and its willingness to delve into process issues at the time of negotiation, numerous line sharing implementation issues must be addressed in the upcoming workshop.

Covad has experienced obstacles to closing line sharing orders throughout the Qwest footprint. In particular, the issues of (1) incorrectly wired splitters, (2) missing, or incorrect cross-connects, and (3) lack of training, both for technicians and repair and maintenance personnel, must be resolved. All of these problems are resulting in Covad sending its own technicians to the central office to trouble shoot trouble that Qwest technicians should have found and resolved on its own. Covad cannot afford to train Qwest technicians. Additionally, Covad has been forced to roll trucks to customer

¹ See In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, CC Docket No. 99-295, FCC 99-404 (Dec. 22, 1999) at ¶ 37.

the provisioning of a stand-alone loop. The cable pair and the central office equipment information are already known and that the actual provisioning requires little more than removing a cross-connect and replacing it with two cross-connects in the line sharing context. Qwest, however, is proposing the *same* provisioning interval of five (5) days for both stand-alone and line-shared loops. Such an elongated interval for line-shared loops places CLECs at a competitive disadvantage. The SGAT should include a graduated provisioning interval for line-shared loops, which would culminate in a one (1) day interval. It is Covad's position that this "graduated interval" should have already been accomplished. Qwest has had several months to streamline its provisioning processes, but has failed to do so. In light of this sad reality, Covad suggests that the graduation commence immediately and that Qwest begin provisioning in one day by April 1, 2001.

Implementation/Splitter Placement: Section 9.4.2.3.1 of the SGAT allows for placement of the splitter on a MDF or an existing Qwest relay rack in central offices of less than 10,000 lines or where an ICDF is not available. Qwest, however, has installed these kinds of splitters in offices larger than 10,000 for other CLECs. Covad is concerned that with a mere change of name (IDF to ICDF, for example), CLECs rights to mount its splitters are augmented or reduced solely at Qwest's discretion. Covad suggests that Qwest provide this option on a non-discriminatory basis to all CLECs by modifying the SGAT language accordingly. Specifically, Covad suggests that CLECs be able to mount their splitters on any available distribution frame regardless of its current Qwest designation or the size of the central office.

III. SUBLOOP CONCERNS

In Rule 51.319(a), the FCC clearly states that CLECs are entitled to and Qwest is obligated to provide subloop unbundling at any accessible point. Qwest, however, is attempting to evade its unbundling obligations by requiring that CLECs install an

intermediate facility called a “Field Connection Point” or “FCP.” The FCP appears to be an unnecessary addition to the network, which adds cost, complexity, time and potential point of failure. Sections 9.3.1.3 and 9.3.4.1 of the SGAT must be modified to reflect Qwest’s legal obligations.

Moreover, Qwest makes CLEC access to subloops contingent upon the installation of a FCP, which Qwest states in Section 9.3.11.3 it will construct within 120 days (6 months) of payment from CLEC. As accessing subloops is simply a form of remote collocation, intervals for providing access to subloops should never exceed the ninety (90)-day collocation interval recently mandated by the FCC. *Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98* at ¶38.

Covad offers the additional subloop comments and suggestions:

- Section 9.3.9.4 inappropriately requires that the first CLEC to request the mandated construction of a FCP pay for the entire cost of the construction. The FCC’s Advanced Services Order, however, specifically prohibits ILECs from charging the first collocator in a particular incumbent premises for the entire cost of site preparation. Qwest’s proposed cost allocation for the FCP must be revised.
- Adding additional cabinets or pedestals to an existing location will likely result in zoning and right-of-way problems, which will in turn result in many requests being denied for “feasibility” reasons.
- Qwest should provide individual CLEC cross-connect blocks in the existing cabinet rather than adding additional needless network devices, such as the FCP, which will also require two cross-connects to be made for each subloop ordered. These blocks can very easily serve as the point of demarcation between networks.

- The FCP should only be used when there is no space at the existing Qwest “accessible terminal.” If Qwest alleges a “no space” condition, the same SGAT provisions addressing no collocation space in central office should apply to the terminal, including the opportunity for the denied CLEC to make a visual inspection of the terminal.
- Qwest must provide access to “accessible terminals” even if the terminal ownership has been transferred to an affiliate. Competition must not be side-stepped by business maneuvers such as transferring assets to unregulated affiliates.
- A process for testing after provisioning and prior to acceptance should be developed.
- CLECs should be called prior to Qwest closing trouble tickets.

In sum, Qwest’s current proposal fails to meet the mandates of Section 271 to the extent that it discriminates against CLECs. Qwest is requiring CLECs to jump through a number of needless, time-consuming, expensive hoops, while it is free to provision for itself without any of these encumbrances. Covad understands that some changes have been agreed to in other jurisdictions. It is imperative that any competition promoting changes be incorporated into the Arizona SGAT language.

IV. DARK FIBER CONCERNS

The *UNE Remand Order* requires Qwest to provide access to unbundled dark fiber. *UNE Remand Order* at ¶ 326. Covad's concerns with Qwest's dark fiber offering are too extensive to address exhaustively herein, but Covad raises the following issues for discussion at the upcoming workshop:

Any restriction on CLEC use of dark fiber must be reasonable and must further relate to a likely and foreseeable threat to Qwest's ability to provide services as a carrier of last resort. See *UNE Remand Order* at ¶ 352.

Because new technologies are being developed which will allow both the transmittal and receipt of signals of a fiber optic carrier system to use the same fiber, Qwest should offer individual fibers, rather than requiring "dark fiber" to be ordered in pairs. SGAT Section 9.7.2.4 should, therefore, be modified to allow ordering of a single strand, as Covad believes Qwest agreed to at the Colorado workshop.

Finally, Covad suggests that the parties develop testing and notification processes relating to dark fiber, which currently are absent from the SGAT.

V. PACKET SWITCHING CONCERNS

The FCC has articulated that packet switching be offered as a UNE when loops are provided via DLC or related technology; CLECs are unable to obtain spare cooper loops, and CLECs are not able to install DSLAM equipment at the remote terminal. *UNE Remand Order* at 313. Based upon the proposed SGAT language, it does not appear that Qwest intends to comply with all of the FCC rules and regulations on Packet Switching.

Covad anticipates that the parties will discuss specific modifications and the implementation of competition-safeguarding measures at the upcoming workshop and suggests that the following issues be addressed:

- Unless CLECs are provided access to packet switching at remote terminals, emerging services competition may never evolve in areas of the network served by Qwest Next Generation Digital Loop Carrier (NGDLC). Only Qwest, or its data affiliates, will have access to the short copper loops needed to support these new services.
- If CLECs are required to collocate digital subscriber line multiplexers (DSLAMs) in remote terminals, the economics will never justify the expense, and competition will likely never occur. Many of these remote terminals support fewer than 400 lines.
- Similarly, if Qwest chooses to place individual DSLAM equipment at the Feeder Distribution Interface (FDI), competition may be eliminated entirely, as the economics become even less viable. Local codes and covenants will also likely prohibit the placement of multiple “boxes” at every FDI.
- As these fiber fed systems are deployed, less and less copper will be available for use by CLECs. Copper will be used to reinforce demand closer to the central office and some of the older copper will likely be retired.
- Any NGDLC deployed by Qwest, or a data affiliate, should be required to be unbundled immediately, in order to promote competition for data services in the more distant areas of the network.
- CLECs must be able to place their own DSL cards in these Qwest NGDLC systems. This will allow CLECs to choose what services they wish to provide to their customers.

VI. CONCLUSION

For the reasons stated above, Qwest has failed to satisfy its burden of proof establishing compliance with Section 271. Accordingly, Covad respectfully requests that this Commission reject Qwest's application to provide interLATA services.

Dated this 24th day of January, 2001.

Respectfully submitted,

COVAD COMMUNICATIONS COMPANY

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EXHIBIT A

CERTIFICATE OF SERVICE

I, Phil R. Ceguera, hereby certify that an original and ten (10) copies of the **redacted** version of the **Initial Comments of Covad Communications Company's Regarding Emerging Services**, in Docket No. T-00000A-97-0238, were sent for filing via overnight delivery on this 24th day of January, 2001, to the following:

Arizona Corporation Commission
 Docket Control-Utilities Division
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 Phoenix, AZ 85007-2996

and a **non-redacted** version of the foregoing was served via overnight delivery this 24th day of January, 2001, on the following:

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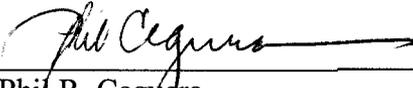
and a true and correct copy of the **redacted** version of the foregoing was sent via United States Mail, postage prepaid, on this 24th day of January, 2001, to the following:

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and a true and correct copy of the **redacted** version was served electronically on January 24, 2001, to each person on the e-mail distribution list for this docket provided by Staff of the Arizona Corporation Commission.



 Phil R. Ceguera