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NEW APPLICATION ORIGINAL

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AZ CORP COMMISSION
DOCUMENT CONTROL

February 14, 2001

BY HAND DELIVERY

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

DOCKET NO. T-01051B-01-0132

DOCKET NO. T-03754A-01-0132

Re: In the Matter of the Application of Qwest Corporation for Approval of the Third Amendment to the Interconnection Agreement with TESS Communications, Inc.

Dear Madam or Sir:

Please find enclosed an original and ten (10) copies of the Third Amendment to Interconnection Agreement between Qwest Corporation ("Qwest") and TESS Communications, Inc. ("TESS").

The Amendment is made in order to add the terms and conditions for Unbundled Dark Fiber as set forth in the Attachment for Unbundled Dark Fiber to the Amendment. The Arizona Corporation Commission approved the underlying Agreement between Qwest and TESS on October 8, 1999 in Docket Nos. T-01051B-99-0447 and T-03754A-99-0447, Decision No. 61983. Enclosed is a service list for these dockets.

Please contact me at (602) 916-5345 if you have any questions concerning the enclosed. Thank you for your assistance in this matter.

Sincerely,

FENNEMORE CRAIG

Darcy Renfro
Darcy Renfro

Enclosures

FENNEMORE CRAIG

Docket Control
February 14, 2001
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cc: Klayton Fennell, TESS Communications, Inc.
Deborah Scott, Director, ACC Utilities Division
Chris Kempley, Chief Counsel, ACC Legal Division

PHX/DRENFRO/1155018.1/67817.179

**Amendment No. 3 to the Interconnection Agreement
between
TESS Communications, Inc.
and
Qwest Corporation
(formerly doing business as U S WEST Communications, Inc.)**

This Amendment No. 3 ("Amendment") is made and entered into by and between TESS Communications, Inc. ("TESS") and Qwest Corporation (formerly doing business as U S WEST Communications, Inc.) ("Qwest").

RECITALS

WHEREAS, TESS and Qwest entered into a Local Interconnection Agreement for service in the state of Arizona that was approved by the Arizona Corporation Commission on October 08, 1999 (the "Agreement"); and

WHEREAS, TESS and Qwest desire to amend the Agreement under terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Amendment Terms.

This Amendment is made in order to add the terms, conditions and rates for Unbundled Dark Fiber as set forth in the Attachment for Unbundled Dark Fiber, attached hereto and incorporated herein.

2. Effective Date.

This Amendment shall be deemed effective upon Commission approval; however, the Parties may agree to implement the provisions of this Amendment upon execution. To accommodate this need, TESS must generate, if necessary, an updated Customer Questionnaire. In addition to the Questionnaire, all system updates will need to be completed by Qwest. TESS will be notified when all system changes have been made. Actual order processing may begin once these requirements have been met.

3. Further Amendments.

Except as modified herein, the provisions of the Agreement shall remain in full force and effect. Neither the Agreement nor this Amendment may be further amended or altered except by written instrument executed by an authorized representative of both Parties.

JSC

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

TESS Communications, Inc.

James E. Cook
Authorized Signature

JAMES E. COOK
Name Printed/Typed

COO
Title

1/17/01
Date

Qwest Corporation

Chris Rau
Authorized Signature

CHRIS RAU
Name Printed/Typed

Gen Mgr
Title

1-19-2001
Date

Address for Notices:

12050 N. Pecon St
Suite 300
Westminster, CO 80234
Attention: Regulatory

Address for Notices:

**ATTACHMENT
UNBUNDLED DARK FIBER**

1.0 Unbundled Dark Fiber

1.1 Description

1.1.1 Unbundled Dark Fiber (UDF) is a deployed, unlit pair of fiber optic cable or strands that connects two points within Qwest's network. UDF is a single transmission path between two Qwest Wire Centers or between a Qwest Wire Center and an end user customer premise in the same LATA and state. UDF exists in two distinct forms: (a) UDF Interoffice Facility (UDF-IOF), which constitutes an existing route between two Qwest Wire Centers; and (b) UDF-Loop, which constitutes an existing loop between a Qwest Wire Center and either a fiber distribution panel located at an appropriate outside plant structure or an end-user customer premises.

1.2 Terms and Conditions

1.2.1 Qwest will provide TESS with non-discriminatory access to UDF-IOF and UDF-Loop. Qwest will provide UDF of substantially the same quality as the fiber facilities that Qwest uses to provide service to its own end user customers within a reasonable time frame.

1.2.2 TESS will provide Qwest with non-discriminatory access to UDF-IOF and UDF-Loop. TESS will provide UDF of substantially the same quality as the fiber facilities that TESS uses to provide service to its own end user customers within a reasonable time frame.

1.2.3 Qwest will provide TESS with access to existing Dark Fiber facilities. TESS shall be responsible for obtaining and connecting electronic equipment, whether light generating or light terminating equipment, to the Dark Fiber. Qwest will not remove, and TESS shall be permitted to use, regenerating equipment that already exists in mid-span.

1.2.4 Qwest will provide Unbundled Dark Fiber to TESS in increments of two strands (by the pair). TESS may obtain up to 25% of available dark fibers or four dark fiber strands, whichever is greater, in each fiber cable segment over a 12 month period. TESS must demonstrate efficient use of those fibers before leasing additional fiber in each cable segment. Efficient use of interoffice cable segments is defined as providing a minimum of OC-12 capacity on each fiber pair. Efficient use of loop fiber is defined as providing a minimum of OC-3 capacity on each fiber pair

1.2.5 Qwest shall not have an obligation to unbundle Dark Fiber in the following circumstances:

- a) Qwest will not unbundle Dark Fiber utilized for maintenance or reserved for maintenance spare. Qwest shall not reserve more than 5% of the fibers in a sheath for maintenance or maintenance spare.

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- b) Qwest will not unbundle Dark Fiber that, as of the day TESS submits its order for Unbundled Dark Fiber, Qwest has already designated for use in an approved, or pending job on behalf of Qwest or another carrier.
 - c) Qwest will not be required to unbundle Dark Fiber if Qwest demonstrates to Commission by a preponderance of the evidence that such unbundling would create a likely and foreseeable threat to its ability to provide its services as required by law. In such circumstances, Qwest shall be relieved of its unbundling obligations during the pendency of the proceeding before Commission.
- 1.2.6 Qwest will provide TESS with access to the existing Dark Fiber in its network in either single-mode or multi-mode. During the inquiry process, Qwest will inform TESS of the availability of single-mode and multi-mode fiber.
- 1.2.7 Specifications, interfaces and parameters for Dark Fiber are described in U S WEST's Technical Publication 77383.
- 1.2.8 TESS is responsible for trouble isolation before reporting trouble to Qwest.
- 1.2.9 TESS shall not use UDF as a substitute for special or switched access services, except to the extent TESS provides "a significant amount of local exchange traffic" to its end users over the UDF as set forth by the FCC.
- 1.2.10 Upon twelve (12) month notification to TESS or as defined by Commission, Qwest reserves the right to reclaim in part or in whole, UDF previously obtained by TESS. This condition would arise in those cases where Qwest is in jeopardy of meeting or maintaining control of its obligation to provide services as required by law. In addition, if TESS does not achieve and maintain minimal UDF utilization, as outlined previously in this Section, within 12 months of the UDF's receipt, Qwest may reclaim the facilities and charge TESS the normal disconnection charges contained in the Interconnection Agreement. Upon request, TESS must provide Qwest with evidence verifying minimum UDF utilization. Qwest may conduct an Audit or Examination of TESS's utilization of the UDF provided under this Amendment pursuant to the terms of the Audit Section of the Interconnection Agreement. Qwest will provide an alternative means of service when under-utilization is found.
- 1.2.11 Qwest will not combine a Dark Fiber element with another Unbundled Network Element or Qwest services, or TESS facilities. TESS is responsible for connecting Dark Fiber with TESS fiber optic terminal or other equipment.
- 1.2.12 TESS must have Collocation at both ends of the UDF-IOF or at the Serving Wire Center of the UDF-Loop.

- 1.2.13 For UDF-Loop, TESS is responsible for all work activities at the end-user premise. All negotiations with the premise end-user and or premise owner are solely the responsibility of TESS.
- 1.2.14 For a UDF-Loop terminating at an existing end-user premise FDP, Qwest will provide to TESS an optical "jumper", not to exceed 30 feet in length, connected to the Qwest UDF-Loop FDP.
- 1.2.15 TESS is responsible for all permits, licenses, bonds, or other necessary legal authority and permission, at TESS's sole expense, in order to perform its obligations to gain access to UDF at an outside plant structure. TESS shall contact all owners of public and private Rights-of-Way to obtain their permission required to perform the necessary work to access UDF. TESS facilities shall be placed and maintained in accordance with the requirements and specifications of applicable Fiber Communications Standards, the National Electrical code, the National Electrical Safety Code, the rules and regulations of the Occupational Safety and Health Act, and any governing authority having jurisdiction. Access to Right-of-Way shall be in accordance with the Access to Poles, Ducts, Conduits and Rights of Way Section.
- 1.2.16 TESS will incur all costs associated with returning the UDF to its original condition when it disconnects UDF.

1.3 Ordering Processes

Ordering processes and installation intervals are as follows:

- 1.3.1 Prior to placing an order for UDF, TESS must first establish a Collocation arrangement in each of the necessary Qwest Wire Centers. TESS must establish proper ICDF demarcation points as part of its collocation build in order to accommodate the UDF optical terminations.
- 1.3.2 The first step of the UDF ordering process is the inquiry process. TESS must submit a UDF inquiry through its account team. The UDF inquiry is used to determine the availability of UDF between the two requested locations, UDF-IOF or UDF-Loop. TESS must specify the two Qwest offices or end-user premise location and the number of fibers requested. Qwest will inform TESS of the availability of dark fiber that will meet TESS's request, if any, within 10 business days for an Initial Records Inquiry (IRI).
- 1.3.3 Based on TESS's request (UDF-Loop or UDF-IOF), there are two possible scenarios.

Termination at a Mid-Point Structure

1.3.3.1 If spare fiber is available, and TESS chooses to proceed, and the request is for UDF-Loop going to a mid-point structure such as a Controlled Environmental Vault (CEV), or Remote Terminal (RT), TESS will submit the Field Verification Quote Preparation (FVQP) form. Qwest

will prepare and submit to TESS a quote along with the original FVQP within 20 business days of the submission of the FVQP form by TESS. Quotes are on an Individual Case Basis (ICB) and will include costs and number of days required to provision the service.

1.3.3.2 Qwest will begin the provisioning process upon notification from TESS to proceed and the receipt of 50% of the quoted amount. The notification to proceed is accomplished by completing, signing and returning the original FVQP to the account manager. The account manager will notify TESS when provisioning is complete and the remaining quoted amount, the non-recurring charges, and recurring charges will be billed.

Termination at Qwest Wire Center or End-user Premise

1.3.3.3 If spare fiber is available, and TESS chooses to proceed, and the request is for a UDF-IOF or a UDF-Loop going to a end-user premise, Qwest will begin the provisioning process upon notification from TESS to proceed and the receipt of 50% of the non-recurring charges. The notification to proceed is accomplished by completing, signing and returning the original inquiry request to the account manager. Provisioning of this type of request will take 20 business days. TESS will be notified that provisioning is complete and the remaining non-recurring charges and associated recurring charges will be billed.

1.3.4 An order may be canceled any time up to and including the service date. Cancellation charges will apply.

1.4 Maintenance and Repair

1.4.1 The Parties will perform cooperative testing and trouble isolation to identify where trouble points exist. TESS cross connections will be repaired by TESS and Qwest cross connections will be repaired by Qwest. Maintenance and Repair processes are contained in the Support Functions Section of the Interconnection Agreement .

1.5 Rate Elements

1.5.1 Dark Fiber rates are contained in Exhibit A of this Amendment and include the following elements:

- a) Initial Records Inquiry (IRI). This rate element is a pre-order work effort that investigates the availability of UDF. This is a one-time charge for each route check requested by TESS. A simple IRI determines if UDF is available between two Qwest wire centers or between a Qwest wire center and customer premise. A complex IRI determines if UDF is available between a Qwest wire center and an outside structure (CEV, Hut, etc.) along the Loop fiber route. Qwest will bill TESS the IRI immediately upon receipt of the inquiry. The IRI is a record search and does not guarantee the availability of UDF.

JSC

- b) Field Verification and Quote Preparation (FVQP). This rate element is a pre-order work effort to estimate the cost of providing UDF access to TESS at locations other than Qwest Wire Centers or an end-user premises. Qwest will prepare a quote which will explain what work activities, timeframes, and costs are associated with providing access to this FDP location. This quote will be good for 30 calendar days. The FVQP is not necessary when the request is between Qwest wire centers or between a Qwest wire center and customer premise (i.e. IRI).

1.5.2 The following rate elements are used once the availability of UDF has been established and TESS chooses to access UDF.

1.5.2.1 Unbundled Dark Fiber - IOF Rate Elements

- a) UDF-IOF Termination (Fixed) Rate Element. This rate element has both a recurring and non-recurring component and provides a termination at the interoffice FDP within the Qwest Wire Center. Two UDF-IOF terminations apply. Termination charges apply for each intermediate office terminating at an FDP or like cross-connect point.
- b) UDF-IOF Fiber Transport, (Per Mile) Rate Element. This recurring rate element provides a transmission path between Qwest Wire Centers. This is a mileage sensitive element based on the route miles of the UDF rounded up to the next mile.
- c) UDF-IOF Fiber Cross-Connect Rate Element. This rate element has both a recurring and non-recurring component and is used to extend the optical connection from the IOF FDP to TESS's optical demarcation point (ICDF). A minimum of two UDF-IOF fiber cross-connects apply. Cross-connect charges apply for each intermediate office terminating at an FDP or like cross-connect point.

1.5.2.2 Unbundled Dark Fiber - Loop Rate Elements

- a) UDF-Loop Fiber Non-Recurring Charge: This rate element includes the termination and cross connects at both ends.
- b) UDF-Loop Fiber Recurring Charge: This rate element include transport per pair calculated as the average mileage between the originating Qwest Wire Center and the End-user Premise and the terminations and cross connects at both ends.

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EXHIBIT A – ARIZONA RATES*

Unbundled Dark Fiber (UDF)			
Initial Records Inquiry (IRI)	TELRIC		\$161.00
Mid-Point Structure Inquiry (MPSI)	TELRIC		\$205.28
Field Verification and Quote Preparation (FVQP)			\$1499.33
UDF-IOF Charges			
Order Charge per PR/Route/Order	TELRIC		\$568.94
Order Charge ea Addl. Pr./Same Route	TELRIC		\$248.67
Termination, Fixed Per Pr./Office	TELRIC	\$8.54	
Fiber Transport, per Mile		\$100.01	
Fiber Cross-Connect Per Pr.		\$4.74	\$21.76
UDF-Loop Charges			
Order Charge per Pr./Route/Order	TELRIC		\$568.94
Order Charge each. Addl. Pr./Same Route			\$248.67
Termination, Fixed Per Pr./Office		\$7.79	
Termination, Fixed Per Pr./Prem		\$6.93	
Fiber Transport, per Route		\$148.37	
Fiber Cross-Connect Per Pr.		\$4.74	\$21.76

NOTE:

*Unless otherwise indicated, all rates are pursuant to Arizona Corporation Commission Order Number 60635 in Cost Docket (Consolidated Arbitrations) Number U-3021-96-448, effective January 30, 1998.

JSL

1 SERVICE LIST FOR: Qwest Corporation
Docket No. T-01051B-99-0447 and T-03754A-99-0447

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