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**BEFORE THE ARIZONA CORPORATION COMMISSION**

MARC SPITZER  
Chairman  
WILLIAM A. MUNDELL  
Commissioner  
MIKE GLEASON  
Commissioner  
KRISTEN K. MAYES  
Commissioner

AZ CORP COMMISSION  
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In the matter of the petition )  
of Autotel )  
for arbitration of an )  
interconnection agreement )  
with Qwest Corporation )  
pursuant to Section 252(b) )  
of the Telecommunications Act)

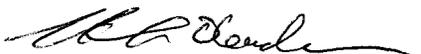
Docket No. T-01051B-04-0152

**Autotel's Reply to Qwest's Notice of Supplemental Authority**

Probably the most relevant factor that the Arizona Commission should take administrative notice of is the fact that in Oregon Qwest has the political influence to cause the Chairman of the Oregon Commission to be removed from his position. Also Qwest's ability to achieve such phenomenal results in state arbitration proceedings is certainly something Autotel and its affiliate will be looking into.

In any event, it is still this Commission's duty to resolve the open issues and impose conditions that meet the requirements of section 251 and the regulations in this Arbitration between Autotel and Qwest in Arizona. For the convenience of the Commission, attached are Western's comments on the Oregon Arbitration Decision.

Respectfully Submitted this 1st of October, 2004

  
Richard L. Oberdorfer  
Autotel

Arizona Corporation Commission

**DOCKETED**

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF OREGON

In the matter of the petition )  
of Western Radio Services Co. )  
for arbitration of an )  
interconnection agreement )  
with Qwest Corporation )  
pursuant to Section 252(b) )  
of the Telecommunications Act )

Docket No. ARB 537

**Comments of Western Radio Services Co  
on Arbitration Decision**

**I. Background**

The road to an interconnection agreement with Qwest has been long and slow for Western and its affiliate. For the first three years after Western requested negotiations in 1996, US West refused to negotiate. After ARB 137 the extent of the negotiations for the next three years was Qwest insisting on their standard terms and conditions. The parties eventually found some common ground in an agreement between Qwest and AT&T Wireless which had been approved by the Utah Commission. That agreement with Western's affiliate was partially negotiated, mediated, and arbitrated. Unfortunately, the Arbitration Order that was adopted by the Utah Commission only resolved six of eight open issues in accordance with sections 252, 251 and the regulations. That Order has been appealed to US District Court.

In this arbitration, the parties have been only able to settle two open issues. Those open issues were previously settled in the mediation in Utah and were presented here as the result of some agreement slippage on Qwest's part. For the remaining open issues, the Arbitrator has recommended conditions that meet the requirements of how Qwest wants to treat competitors instead meeting the requirements of sections 252, 251 and the regulations.

**II. The Disputed Recommended Conditions**

**Issue No. 1 & 11.** The conditions recommended by the Arbitrator require Western to interconnect at every Qwest access tandem in the LATA. Section 251(c)(2) gives Qwest "The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network -- (A) for the transmission and routing of telephone exchange service and exchange access; (B) at any technically feasible point in the carrier's network". 47 CFR 51.305(a)(2)(iii) states that interconnection at a tandem switch is technically feasible. The regulation allows Western to interconnect and exchange telecommunications traffic at a single access tandem

**Issue No. 2.** The conditions recommended by the Arbitrator would allow Qwest to assess access charges, instead of reciprocal compensation, on local telecommunications traffic if that traffic transited the network of another telecommunications carrier. 47 CFR 51.701(B)(2) defines local telecommunications traffic as "Telecommunications traffic between a LEC and a CMRS provider, that at the beginning of the call, originates and terminates in the same Major Trading Area" There is no exception in section 251 and the regulations which allows the assessment of access charges on local traffic.

**Issue No. 3 & 12.** The conditions recommended by the Arbitrator allows Qwest to determine the technical feasibility of the DTMF and Dial Pulse signaling that Western requires for Type 1 interconnection at the line side of Qwest's local switches. 47 CFR 51.305(e) requires: "An incumbent LEC that denies a request for interconnection at a particular point must prove to the state commission that interconnection at that point is not technically feasible." The regulation requires the Commission, not Qwest, to make determinations of technical feasibility. Section 252(c) requires the Commission to impose the conditions that meet the requirements of section 251 and the regulations.

**Issue No. 4.** The conditions recommended by the Arbitrator have removed from the interconnection agreement the rates, terms and conditions for access to the unbundled network elements and allow Qwest to impose its rates, terms, and conditions later if Western makes another request. Section 252(c) requires the Commission to establish the rates, terms, and conditions for access to unbundled network elements under section 251(c)(3) and 47 CFR 51.319.

**Issue No. 5.** The conditions recommended by the Arbitrator eliminate from the interconnection agreement Qwest's obligation to pay reciprocal compensation for the transport and termination of Qwest sent local traffic prior to the effective date of the agreement. 47 CFR 51.717 gives Western the right to access the same rates for transport and termination on Qwest that Qwest has accessed on Western from the date Western requested renegotiation of its prior non-reciprocal arrangement until the new agreement becomes effective. The conditions do not meet the requirements of the regulation.

**Issue No. 6.** The conditions recommended by the Arbitrator defines local traffic to be

the smaller local calling area established for a non-CMRS provider by the state commission under 47 CFR 51.701(b)(1) instead of the larger Major Trading Area established for a CMRS provider established by the FCC under 47 CFR 51.701(b)(2). This definition effects the parties obligations to exchange traffic and for payment of reciprocal compensation. Western is a CMRS provider. The Arbitrator has recommended conditions for a non-CMRS provider.

**Issue No. 7.** The conditions recommended by the Arbitrator limits Qwest's obligation to provide dedicated transport service to 50 miles. Section 251(c)(2) gives Qwest "The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network -- (A) for the transmission and routing of telephone exchange service and exchange access; (B) at any technically feasible point in the carrier's network". 47 CFR 51.305(a)(2)(vi) states that interconnection at the points of access to unbundled network elements as described in § 51.319 are technically feasible. Sec 51.319 defines the dedicated transport network element as a transmission path between the incumbent LEC's wire centers or switches. There is no requirement in section 251 or the regulations that limits Qwest's obligation to provide dedicated transport to only those wire centers or switches that are closer than 50 miles.

**Issue No. 8.** The conditions recommended by the Arbitrator allow Qwest to set the rates for the two way dedicated interconnection facilities Qwest provides. Section 252(c)(2) requires the State Commission to "establish the rates for interconnection, services, or network elements according to subsection (d)". Section 252 does not allow Qwest to set rates and the parties have settled the open issue related to rates. The conditions do not provide for reciprocal compensation to Western for analog loop interconnection facilities provided by Qwest. 47 CFR 51.709(b) allows Qwest to "recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network." The regulation does not allow Qwest to assess all the cost of Qwest provided two way analog loops to Western.

**Issue No. 10 & 12.** The conditions recommended by the Arbitrator allow Qwest to determine the technical feasibility and the terms and conditions for meet point interconnection arrangements. 47 CFR 51.321(b)(2) states that meet point interconnection arrangements are technically feasible methods of obtaining interconnection and access to unbundled network elements. The FCC has determined that meet point arrangements are technical feasible. Section 252(c) requires the Commission to impose the conditions that meet the requirements of section 251 and the regulations.

### III. CONCLUSION

The Arbitrator's Decision does not comply with OAR 860-16-0030 (9)(a) and (b). This Arbitrator has reached the exact opposite decision on the same open issues of previous Arbitration Decisions in Oregon. In light of the foregoing, it is appropriate for the Commission to take the steps necessary to ensure that the interconnection agreement complies with section 252, 251 and the regulations.

Respectfully Submitted this 30th of September, 2004



Richard L. Oberdorfer  
Western Radio Services Co.

## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of Autotel's Reply to Qwest's Notice of Supplemental Authority was sent via First Class Mail on September 30, 2004

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