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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

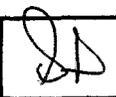
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IN THE MATTER OF QWEST  
CORPORATION'S COMPLIANCE WITH  
§ 271 OF THE  
TELECOMMUNICATIONS ACT OF  
1996.

DOCKET NO. T-00000B-97-0238

QWEST'S COMMENTS ON STAFF'S REPORT  
ON CHECKLIST ITEM 13

INTRODUCTION

Qwest Corporation ("Qwest"), through its undersigned counsel, submits these comments on the draft Commission Staff's Report on Qwest's Compliance with Checklist Item No. 13 (reciprocal compensation).

Qwest appreciates the time and attention Staff has spent reviewing and summarizing the pre-filed testimony of the participants, the workshop discussions, and the status of issues. Although the transcripts, pre-filed testimony and briefs necessarily contain the fullest explication of the parties' position, Staff's Report accurately captured the workshop discussions and the positions of the parties. Qwest also generally concurs in Staff's recommendations regarding Qwest's compliance with checklist item 13, with the limited clarifications set forth below. It is noteworthy, however, that since the Arizona workshops on this checklist item, Qwest has made several accommodations to competitive local

exchange carriers ("CLECs") that further demonstrate its commitment to competition and that eliminate one of the impasse issues addressed in Staff's Report. In addition, significant developments in the law bolster Qwest's position on the disputed issue of compensation for Internet-bound traffic. Qwest briefly discusses below these and other issues raised by Staff's Report.

### COMMENTS

**A. Qwest Has Already Agreed That CLECs May Obtain A Single Point of Interconnection in a LATA at TELRIC Rates.**

The first disputed issue that Staff's Report addresses relates to whether CLECs must establish a point of interconnection in each local calling area in which the CLEC exchanges traffic or, alternatively, whether the CLEC may establish a single point of interconnection in a LATA. As Staff's Report notes, at the time of the Arizona workshop on this checklist item, Section 7.1.2.4 of Qwest's Statement of Generally Available Terms ("SGAT") offered CLECs a single physical point of interconnection in a LATA, but required CLECs to pay private line rates for traffic that left the local calling area. Thus, during the workshop, the dispute centered principally on the rate CLECs would pay if they established a single interconnection point in a LATA. Staff's Report at 14.

Since the Arizona workshop on checklist item 13, Qwest has eliminated its interLCA proposal and those provisions of Section 7 (such as Section 7.1.2.4) incorporating it. Thus, the SGAT now permits CLECs to obtain a single point of interconnection in a LATA and pay Qwest TELRIC rates for exchange of traffic. The elimination of this provision and the other conforming SGAT modifications have been presented in Arizona workshops on checklist

item 1 (interconnection). Thus, this impasse item no longer exists, and the Commission should consider it closed.

**B. Staff Correctly Recommends that CLECs Cannot Convert Special Access Circuits to Interconnection Trunks and Ratchet the Rates to TELRIC.**

The second disputed issue that Staff's Report addresses is really two distinct issues: (1) the rate that applied when a CLEC establishes one point of interconnection in a LATA, as discussed above, and; (2) whether CLECs can purchase special access circuits out of Qwest tariffs, convert a portion of the special access circuits to interconnection trunks, and "ratchet" the rates to TELRIC. On the first issue, as noted above, Qwest has eliminated the interLCA provisions of the SGAT and now permits CLECs to exchange traffic throughout a LATA at TELRIC rates. Thus, there is no longer a dispute on this subissue.

On the second subissue, Staff's endorsement of Qwest's SGAT language is correct and consistent with current FCC pronouncements. Colorado Staff recently made the same recommendation, as have ALJs in Oregon and Washington, and the Facilitator in the multi-state Section 271 proceeding involving the state commissions in Idaho, Iowa, Montana, North Dakota, New Mexico, Utah and Wyoming. In short, no state commission to date has adopted AT&T's position on this issue. The reasons why are straight forward: the FCC's *Supplemental Order*<sup>1</sup> and *Supplemental Order Clarification*<sup>2</sup> reject the AT&T position, the SGAT permits CLECs to receive the economy of using special access circuits for

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<sup>1</sup> Supplemental Order, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-370 (rel Nov. 24, 1999) ("*Supplemental Order*").

interconnection so long as the CLEC pays the special access rates, and important universal service goals would be undermined if CLECs were permitted to use special access circuits for interconnection and "ratchet" the rates to TELRIC.

Staff notes that Qwest should, if it has not already, propose language to reflect the "significant amount of local use" requirements the FCC outlined in the *Supplemental Order Clarification*. Qwest has already done so in SGAT § 9.23, concerning enhanced extended loops (EELs).

**C. Staff's Recommendation on Host-Remote Compensation is Acceptable to Qwest.**

On the disputed issue of whether Qwest can recover compensation for transport it provides between its host and remote switches, Staff recommends that Qwest be permitted to recover these costs, but not at the tandem rate if the host and remote switches are in the same wire center. Staff's Report at 17, ¶ 74. SGAT § 7.3.4.2.3, submitted on February 12, 2001 in Qwest's Motion to Admit SGAT Changes, provides that to receive compensation for transport between the host and the remote, the remote switch must be listed in the NECA 4 tariff. Where the host and the remote are in the same wire center, the remote switch is not listed in the NECA 4 Tariff. Thus, Qwest believes its proposal already addresses Staff's concern.

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<sup>2</sup> Supplemental Order Clarification, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 00-183 (June 2, 2000) ("*Supplemental Order Clarification*").

**D. Staff's Recommendation on the Tandem Switch Definition and Compensation is Proper, and Qwest will Implement Staff's Recommendation if it is Approved.**

For Arizona, Qwest is willing to accept the language Staff recommended for Section 4.11.2 that is described in Staff's Report in light of Staff's other recommendations on this issue. Specifically, Qwest agrees with Staff's recommendation to approve Qwest's SGAT language in Section 7.3.4.2.1 providing that carriers must switch traffic twice to recover both tandem and end office costs. Staff appropriately recognizes that no carrier should receive a windfall for switching it does not perform. Thus, Qwest will accept this resolution of this disputed issue.

**E. The FCC's Order on Remand Regarding Internet-Bound Traffic Establishes that Compensation for Internet-bound Traffic is not a Checklist Item 13 Issue.**

Staff correctly recommends that Qwest's opposition to paying "reciprocal compensation" for Internet-bound traffic is not a checklist item 13 issue. The FCC's orders on Section 271 have declined to address a BOC's opposition to paying reciprocal compensation for Internet-bound traffic as a checklist item 13 issue.<sup>3</sup> More important, the

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<sup>3</sup> Memorandum Opinion and Order, *Joint Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, interLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, FCC 01-29 ¶ 251 (Jan. 22, 2001) (footnotes omitted) ("*SBC Kansas/Oklahoma Order*"); Memorandum Opinion and Order, *Application of SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, FCC 00-238 at ¶ 386 (June 30, 2000) ("*SBC Texas Order*"); Memorandum Opinion and Order, *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*, CC Docket No. 99-295, 15 FCC Rcd 3953 ¶ 377 (Dec. 22, 1999) ("*Bell Atlantic New York Order*").

FCC's April 27, 2001 *ISP Order on Remand*<sup>4</sup> conclusively establishes that Internet-bound traffic is *not* included in the reciprocal compensation obligations of 47 U.S.C. § 251(b)(5). Therefore, Staff's recommendation is undoubtedly correct.

Staff further states that Qwest should modify its SGAT "to be consistent with the recent FCC order, and this Commission's determinations resulting from the wholesale pricing docket." Staff's Report at page 20, ¶ 90. In the multi-state proceeding, Qwest recently proposed language to address this recent FCC order. Qwest will provide that language to the Arizona parties and the Commission shortly with its next full SGAT filing.

### CONCLUSION

Qwest reiterates that it appreciates Staff's time and attention in drafting its Report on Qwest's Compliance with Checklist Item 13. Qwest believes the Report accurately captures the position of the parties on the disputed issues and, on the whole, correctly decides them.

DATED this 29th day of May, 2001.

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<sup>4</sup> Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, CC Docket 96-98 (rel. April 27, 2001) ("*ISP Order on Remand*").

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