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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

Arizona Corporation Commission
DOCKETED

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AZ CORP COMMISSION
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IN THE MATTER OF)
QWEST CORPORATION'S)
COMPLIANCE WITH SECTION 252(e))
OF THE TELECOMMUNICATIONS)
ACT OF 1996)

DOCKET NO. RT-00000F-02-0271

**QWEST CORPORATION'S COMMENTS ON STAFF'S REPLY TO
COMMENTS ON ITS SUPPLEMENTAL REPORT AND
REPLY TO RUCO'S MOTION FOR PROCEDURAL CONFERENCE**

The Arizona Corporation Commission Staff filed its Reply to Comments on its Supplemental Report and Recommendation on September 4, 2002. On September 6, 2002, the Residential Utility Consumer Office ("RUCO") filed a motion for procedural conference ("Motion"). Qwest Corporation ("Qwest") files these comments to Staff's reply comments and opposition to RUCO's motion.

Qwest respectfully submits that there is no need for further hearings in the 252(e) docket. As all parties acknowledge, there has not been a clear standard defining the scope of the filing requirement. Faced with an ambiguous standard, Qwest proceeded in a good faith, reasonable attempt to distinguish between agreements that did, or did not, need to be filed. Thus, if the Commission decides to conduct any future proceedings, they should focus on developing and clarifying a filing standard that all parties can follow.

In its attempt to justify additional discovery and an expansive evidentiary hearing, RUCO makes broad and incendiary allegations that are unsupported by the record. The record

evidence RUCO does refer to is based on selective and out of context quotations. Its discussion of the 271 neutrality provision between Qwest and McLeod, for example, neglects to mention that McLeod's neutrality was expressly premised on Qwest's compliance with its agreements and with its statutory and legal obligations. Moreover, despite the fact that RUCO had months to develop the record in this proceeding, it now seeks additional time to try to support unfounded accusations that are contradicted by other evidence.

Finally, any hearing that is held should focus on clarifying the scope of the filing requirement, to which parties it applies, and how Qwest and CLECs can clarify their filing obligations in the future. Because further proceedings on the 252(e) matters are outside the scope of any relevant inquiry under Section 271, the 252(e) docket should be held separate from the 271 docket.

I. There Is No Need for Further Hearings in the 252(e) Docket on Qwest's Decision Not to File the Agreements in Question

There is no reason to hold an additional hearing inquiring into Qwest's conduct in not filing the agreements at issue. As all parties agree, nowhere in the 1996 Act or its legislative history is the scope of the term "interconnection agreement" (and thus the scope of the filing requirement) defined. Indeed, prior to the commencement of the investigation into unfiled agreements in several states, the scope of interconnection agreement had never been defined by any court or administrative agency. Faced with this statutory ambiguity, Qwest developed a definition of interconnection that attempted to balance the competing interests of the 1996 Act – the interest in promoting private negotiation and the interest in preserving regulatory oversight in the provision of local phone services.

The facts produced in discovery show a widespread confusion about the scope of the 252(e) requirement that is not limited to Qwest. CLECs have also had difficulty in

discerning the scope of the 252(e) filing requirement and to whom the requirement applies. (Staff Supplemental Report and Recommendation, August 14, 2002, at 4 – 5.) Also, this confusion has not been limited to Arizona. As this issue has been considered before the FCC and other state commissions, parties have offered a wide variety of definitions. For example, the Staff in this state has asserted that any time an ILEC such as Qwest “enters into a negotiated agreement with a competitor that has any affect [sic] on its provision of interconnection, services, or network elements, it is to file said agreement with the State Commission for approval.”^{1/} On the other hand, the Iowa Utilities Board recently drew the line in a similarly broad, but different place. It calls for filing and prior approval of “any binding arrangement or understanding” about “any aspect of the interconnection between the two carriers, or the provision of services or network elements which in turn are used to provide a telecommunications service.”^{2/} In contrast, before the Federal Communications Commission (“FCC”), the New Mexico Attorney General argued that the requirement in Section 252(e) to file “any interconnection agreement” for approval creates a filing requirement “unlimited” in breadth and scope—one that encompasses every agreement, not merely those related to interconnection, entered into by a CLEC and ILEC.³

Other parties have offered line-drawing suggestions that would omit some contractual arrangements but include many others. For example, the Minnesota Department of

^{1/} Arizona Corp. Comm’n Utilities Division, Staff Report and Recommendation in the Matter of Qwest Corporation’s Compliance with Section 252(e) of the Telecommunications Act of 1996, Docket No. RT-00000F-02-0271, at 14 (June 7, 2002) (emphasis added) (hereinafter “Staff Report”).

^{2/} *AT&T Corp. v. Qwest Corp.*, Docket No. FCU-02-2, Order Making Tentative Findings, Giving Notice for Purposes of Civil Penalties, and Granting Opportunity to Request Hearing, at 7 (issued May 29, 2002) (“IUB Order”).

³ New Mexico Attorney General and Iowa Office of Consumer Advocate Comments Before the FCC, *In Re: Qwest Communications International, Inc., Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements Under Section 252(a)(1)*, WC Docket No. 02-89 at 13 (May 29, 2002) (hereinafter, citations to the FCC docket will be to “Comments before the FCC”).

Commerce states that it “does not attempt to categorize every agreement between Qwest and a CLEC as an interconnection agreement that must be filed under the Act.” It has conceded that it “has no concern with Qwest not filing settlements of legitimate billing disputes, for example, that do not rise to the level of an interconnection agreement.”^{4/} In hearings on this matter in New Mexico, the New Mexico Public Regulation Commission Staff’s expert witness agreed that not all agreements needed to be filed. (Bernal Testimony, June 19, 2002, Trans. at 229:25 – 230:13). Specifically, she agreed that expired or terminated agreements did not need to be filed, nor would agreements to address specific problems with providing interconnection services. *Id.* at 245:1-11, 250:24-25. AT&T stated before the FCC that the Act does not require filing of “day-to-day business documents that are not themselves interconnection ‘agreements’ and that do not establish new or modified terms and conditions of interconnection on a going-forward basis.”^{5/}

Moreover, the implementation of these newly crafted filing standards has not been self-evident. As discussed above, the Iowa Utilities Board (“IUB”) adopted a relatively broad definition of interconnection agreement. However, upon reviewing specific agreements, the IUB determined that many ILEC-CLEC agreements did not have to be filed (over half of 33 agreements considered by the IUB), including exclusively retrospective settlement agreements, purchase agreements and agreements otherwise outside the scope of Sections 251 and 252.^{6/}

The facts elicited in discovery demonstrate that Qwest’s decisions about whether to file the agreements at issue were based on an attempt to interpret—and operate under—this ambiguous standard. The Commission is left with unresolved legal questions, namely: “What is

^{4/} Minn. Dept. of Commerce Comments Before the FCC, at 3, 36.

^{5/} AT&T Comments Before the FCC at 14.

^{6/} The IUB confidentiality order and a listing of the Arizona relevant agreements that the IUB found did not need to be filed is attached as Appendix 1.

the appropriate scope of the Section 252 filing requirement,” “Which agreements, if any, should have been filed,” “What remedial actions, if any, should the Commission take.” The facts necessary to answer those questions already exist in the record, thus, a hearing (or other further proceedings) is not necessary. If there is any hearing, it should focus on clarifying the scope of the filing requirement, to which parties it applies, and how Qwest and CLECs can avoid this entanglement in the future.^{7/}

Qwest has already indicated that it will not oppose the base fines recommended in the Staff reports, with qualifications. Qwest will waive its right to a hearing on those fine amounts, except that Qwest reserves the right to object to these base fines, and any other fines or penalties, if there are further proceedings in this matter that open the possibility of imposing additional fines.

II. RUCO Fails To Justify Conducting a Broad Inquiry Into the Agreements Between Qwest, Eschelon and McLeod

On April 8, 2002, this Commission opened a docket to investigate Qwest’s compliance with the filing requirement of Section 252(e) of the 1996 Telecommunications Act. For the past 4 months, Staff and RUCO have conducted vigorous discovery into the circumstances surrounding the “unfiled agreements”. In response, Qwest has produced thousands of pages of documents, including all documents produced in response to the hundreds of information requests served by the Minnesota Attorney General.

Now at the close of discovery, RUCO improperly seeks to expand the scope of this docket beyond that justified by the facts elicited through months of discovery. In particular,

^{7/} The exception is if the Commission elects to examine in greater detail the alleged oral agreement between Qwest and McLeod. The existence of the agreement is based upon the unsubstantiated allegations of an affiant who did not testify subject to cross-examination in Minnesota. Qwest must be afforded the opportunity to cross-examine any witnesses about this alleged agreement and present its own counter-testimony before this Commission reaches any decision about the existence of the alleged agreement.

RUCO alleges that “the filing violations were the means by which Qwest, Eschelon and McLeod carried out a scheme to damage local telephone competition and obstruct the Commission’s 271 proceedings.” (Motion, at 1). Not only are RUCO’s allegations unsubstantiated and incorrect, but also these allegations far exceed the scope of this 252 docket and will delay this proceeding from its intended purpose of bringing much needed clarity to the scope of the Section 252 filing requirement.

RUCO relies on conjecture and mischaracterization of the facts in the record to support its request. For example, RUCO states that Qwest “bought McLeodUSA’s silence” concerning Qwest’s 271 application. (RUCO Report, at 1, August 29, 2002.) Qwest’s agreements with McLeod did not give Qwest any inappropriate benefit in the Section 271 process, and Qwest did not “buy” McLeod’s silence. Mr. Blake Fisher, a senior executive at McLeod, verified that McLeod’s agreement to “remain neutral on Qwest’s Section 271 applications” was expressly conditioned on Qwest’s complying “with all of our agreements and with all applicable statutes and regulations.” (Affidavit of Blake O. Fisher at ¶ 24.) Accordingly, by its own terms, this agreement simply ensured that Qwest would address McLeod’s concerns such that McLeod would not have issues to raise in 271 proceedings. If Qwest failed to meet its contractual and statutory obligations, McLeod could have addressed those issues in the 271 proceedings. Also, in its responses to data requests from the Staff, McLeod stated that it would not have participated in 271 proceedings anyway because it did not have sufficient staffing. (*See* McLeod’s Responses to Staff Data Requests 2:2, 2:4, 2:5, 2:12 and 2:13.).

Moreover, there is nothing inherently wrong with a CLEC choosing to resolve any complaints it has with a ILEC through private negotiation, rather than a regulatory proceeding such as the 271 docket. Provided the ILEC is meeting a CLECs needs concerning

products and service, the Commission should welcome settlements that resolve disputes without burdening the regulatory process. Other ILECs have employed such settlements to resolve disputes with their customers, and Qwest's conduct was no different than typical industry practice.^{8/}

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^{8/} See *News Briefs: California: ISPS, SBC Reach DSL Settlement*, State Telephone Regulation Report, Vol. 20, Issue 18, 2002 WL 16921618 (September 13, 2002) (detailing a settlement agreement wherein the California ISP association agreed to dismiss a complaint against SBC and to drop opposition to SBC's 271 application).

⁹ Redacted

REDACTED

RUCO also asserts that the documents do not show how the funds from McLeod's Purchase of the UNE-Star products from Qwest were accounted for. This is not correct. The accounting treatment by McLeod and Qwest indicates that both parties understood that the agreement was a purchase agreement, rather than an agreement for a discount. Qwest mistakenly booked the first payment pursuant to the Qwest Purchase Agreement (made in June 2001) as a reduction in revenue.^{10/} However, that mistake was quickly caught and corrected that same month – well before the commencement of this docket – and Qwest correctly booked that and other payments as expense, which is consistent with the fact that the agreement was a take or pay, not a discount arrangement.^{11/} McLeod recorded the payments it received as revenue, which is also consistent with a purchase agreement and inconsistent with a discount arrangement.^{12/}

The business relationships between Qwest and Eschelon and Qwest and McLeod are memorialized in interconnection agreements already filed and approved by this Commission and other state commissions. The unfiled agreements do not transform the basic relationships outlined in those interconnection agreements. RUCO and Staff have known of the unfiled

^{10/} *Id.* at 28:14-16.

^{11/} *Id.* at 28:16-21; Exhibit ACM-5.

^{12/} *See id.*, Exhibit ACM-4.

agreements since at least April (and the alleged oral agreements since July) and have had the opportunity to conduct discovery regarding them. During these months of discovery, RUCO has not found any facts to support its conspiracy theory. Opening a wide-ranging hearing to further indulge RUCO's unsupported conjecture would not be a wise allocation of time and resources.

III. If the Commission Chooses to Conduct Further Hearings, They Should be Separate from the Commission Proceedings Upon Granting a Final Order in the 271 Docket

Without in any way diminishing the importance of the issues underlying the "unfiled agreements" case, they nevertheless are not appropriate matters for consideration as part of the Section 271 public interest inquiry. As Qwest has pointed out in previous filings, the 271 docket is not a vehicle for resolving the legal ambiguities concerning Qwest's obligations under Sections 251 and 252 or other unresolved questions about the interpretation and application of the Act:

As the Commission stated in the *SWBT Texas Order*, despite the comprehensiveness of our local competition rules, there will inevitably be, in any section 271 proceeding, new and unresolved interpretive disputes about the precise content of an incumbent LEC's obligations to its competitors — disputes that our rules have not yet addressed and that do not involve *per se* violations of self-executing requirements of the Act. The section 271 process simply could not function as Congress intended if we were generally required to resolve all such disputes as a precondition to granting a section 271 application. . . . [Section 271 proceedings] are often inappropriate forums for the considered resolution of industry-wide local competition questions of general applicability. . . . [F]ew of the substantive obligations contained in the local competition provisions of sections 251 and 252 are altogether self-executing; they rely for their content on the Commission's rules. ^{13/}

^{13/} See 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*, 16 FCC Rcd 6237 ¶ 19 (2001), modified, *Sprint Communications Co. v. FCC*, 274 F.3d 549 (D.C. Cir. 2001) ("*SBC Kansas/Oklahoma Order*") (footnotes omitted, emphasis added); see also Memorandum Opinion and Order, *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern*

RUCO's request for open-ended inquiry that would delay closure of both the 252(e) and the 271 docket should be rejected because it would in effect turn the 271 docket into just the sort of open-ended inquiry rejected by the FCC.

RUCO's allegation that there was a conspiracy to obstruct the 271 proceedings has likewise been thoroughly examined in this docket and the 271 docket. There is no need for further proceedings on that issue in either docket. Staff has conducted full and thorough discovery of any and all agreements Qwest had with CLECs in Arizona—written and oral. As Staff noted, three of the four parties with whom Qwest had agreements regarding 271 participation have indicated they have no ongoing issues with Qwest related to inability to participate in 271 proceedings. (Staff Supplemental Report, at 9.) Also, a workshop has been conducted to examine whether the unfiled agreements regarding 271 participation tainted the 271 process and to hear and consider any evidence that had not been presented in previous 271 proceedings. (Staff Supplemental Report, at 11.)

Staff opposes consolidation of the 252 and 271 dockets as requested by RUCO. Instead, Staff requests a "sub-docket" to be opened in the 271 Docket to allow further comments on the non-participation agreements. This request should also be turned aside. First, as noted above, this issue has already been addressed in response to data requests and in a workshop in the 271 Docket. Staff has not identified any issues concerning whether the non-participation clauses affected the 271 proceeding beyond the issues already examined. Second, Staff only requests the sub-docket in order to determine if it will recommend further fines against Qwest. The 271 proceeding is concerned with determining whether an ILEC has complied with certain

Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas, 15 FCC Rcd 18354 ¶¶ 23-27 (2000) ("SBC Texas Order").

checklist items so that the Commission can make a recommendation regarding FCC approval for the ILEC to provide in-region inter-LATA services. *See* 47 U.S.C. §§ 271(c)(2)(B) and (d)(2)(B). The examination of unfiled agreements, clarification of the filing standard and possible assessment of should be resolved in the separate 252(e) docket.

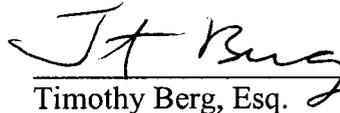
Qwest has agreed to take extensive measures to ensure the controversy over unfiled agreements does not recur. Thus, the only issue remaining concerning these agreements is defining the proper standard for the scope of the Section 252 filing requirement and whether the Commission will choose to impose remedial measures. As explained above, resolution of these issues should be completed in the separate Section 252(e) docket, apart from the 271 proceedings.

V. Conclusion

For the foregoing reasons, the Commission should proceed to define the scope of the Section 252 filing requirement and determine any remedial measures based upon that definition, and in light of the ambiguity in the statute and the general confusion concerning the scope of the filing requirement. The Commission should deny RUCO's suggestion that a broad inquiry should be commenced into the business relationships between Qwest, Eschelon and

McLeod and any call to open a sub-docket—or other hearings on the subject of unfiled agreements—in the 271 Docket.

Respectfully submitted this 17th day of September, 2002.



Timothy Berg, Esq.
Fennemore Craig
3003 North Central Avenue, Suite 2600
Phoenix, AZ 85012-2913
Phone: (602) 916-5000
Fax: (602) 916-5999

Todd Lundy, Esq.
Qwest Corporation
1801 California Street, Suite 3800
Denver, Colorado 80202
(303) 896-1446

Peter A. Rohrbach, Esq.
Peter S. Spivack, Esq.
Keith Benes, Esq.
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, DC 20004-1109
Phone: (202) 637-5600
Fax: (202) 637-5910

Attorneys for Qwest Corporation

ORIGINAL and 10 copies of the
foregoing hand-delivered for
filing this 17th day of September, 2002 to:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered
this 17th day of September, 2002 to:

Lyn Farmer, Chief Administrative Law Judge
Jane Rodda, Administrative Law Judge
ARIZONA CORPORATION COMMISSION
Legal Division
1200 West Washington
Phoenix, Arizona 85007

Chris Kempley, Chief Counsel
Maureen Scott, Counsel
ARIZONA CORPORATION COMMISSION
Legal Division
1200 West Washington
Phoenix, Arizona 85007

Ernest G. Johnson
Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

Caroline Butler
Legal Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing mailed
This 17th day of September, 2002 to:

Eric S. Heath
SPRINT COMMUNICATIONS CO.
100 Spear Street, Suite 930
San Francisco, CA 94105

Thomas Campbell
LEWIS & ROCA
40 N. Central Avenue
Phoenix, AZ 85004

Joan S. Burke
OSBORN MALEDON, P.A.
2929 N. Central Ave., 21st Floor
PO Box 36379
Phoenix, AZ 85067-6379

Thomas F. Dixon
WORLD.COM, INC.
707 N. 17th Street #3900
Denver, CO 80202

Scott S. Wakefield
RUCO
1110 West Washington
Suite 220
Phoenix, AZ 85007

Michael M. Grant
Todd C. Wiley
GALLAGHER & KENNEDY
2575 E. Camelback Road
Phoenix, AZ 85016-9225

Raymond Heyman
Michael Patten
ROSHKA, HEYMAN & DEWULF
400 E. Van Buren, Ste. 900
Phoenix, AZ 85004-3906

Bradley S. Carroll
COX COMMUNICATIONS
20402 North 29th Avenue
Phoenix, AZ 85027-3148

Daniel Waggoner
Greg Kopta
Mary Steele
DAVIS, WRIGHT & TREMAINE
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101

Traci Grundon
Mark P. Trinchero
DAVIS, WRIGHT & TREMAINE
1300 S.W. Fifth Avenue
Portland, OR 97201

Richard S. Wolters
AT&T LAW DEPARTMENT
1875 Lawrence Street, #1575
Denver, CO 80202

Teresa Ono
Gregory Hoffman
AT&T
795 Folsom Street, Room 2159
San Francisco, CA 94107-1243

David Kaufman
E.SPIRE COMMUNICATIONS, INC.
343 W. Manhattan Street
Santa Fe, NM 87501

Diane Bacon, Legislative Director
COMMUNICATIONS WORKERS OF AMERICA
5818 N. 7th St., Ste. 206
Phoenix, AZ 85014-5811

Philip A. Doherty
545 S. Prospect Street, Ste. 22
Burlington, VT 05401

W. Hagood Bellinger
5312 Trowbridge Drive
Dunwoody, GA 30338

Joyce Hundley
U.S. DEPARTMENT OF JUSTICE
Antitrust Division
1401 H Street N.W. #8000
Washington, DC 20530

Andrew O. Isar
TELECOMMUNICATIONS RESELLERS ASSOC.
4312 92nd Avenue, NW
Gig Harbor, WA 98335

Jeffrey W. Crockett
Jeff Guldner
SNELL & WILMER
One Arizona Center
Phoenix, AZ 85004-0001

Charles Kallenbach
AMERICAN COMMUNICATIONS SVCS, INC.
131 National Business Parkway
Annapolis Junction, MD 20701

Mike Allentoff
GLOBAL CROSSING SERVICES, INC.
1080 Pittsford Victor Road
Pittsford, NY 14534

Andrea Harris, Senior Manager
ALLEGIANCE TELECOM INC OF ARIZONA
2101 Webster, Ste. 1580
Oakland, CA 94612

Lyndall Nipps
ALLEGIANCE TELECOM, INC
845 Camino Sure
Palm Springs, CA 92262

Gary L. Lane, Esq.
6902 East 1st Street, Suite 201
Scottsdale, AZ 85251

Kevin Chapman
SBC TELECOM, INC.
300 Convent Street, Room 13-Q-40
San Antonio, TX 78205

Steven Strickland
Jon Loehman
SBC TELECOM, INC.
5800 Northwest Parkway, Room 1T40
San Antonio, TX 78249

M. Andrew Andrade
TESS COMMUNICATIONS, INC.
5261 S. Quebec Street, Ste. 150
Greenwood Village, CO 80111

Richard Sampson
Z-TEL COMMUNICATIONS, INC.
601 S. Harbour Island, Ste. 220
Tampa, FL 33602

Megan Doberneck
COVAD COMMUNICATIONS COMPANY
7901 Lowry Boulevard
Denver, CO 80230

Richard P. Kolb
Vice President of Regulatory Affairs
ONE POINT COMMUNICATIONS
Two Conway Park
150 Field Drive, Ste. 300
Lake Forest, IL 60045

Steven J. Duffy
RIDGE & ISAACSON, P.C.
3101 North Central Ave., Ste. 1090
Phoenix, AZ 85012

Teresa Tan
WORLD.COM, INC.
201 Spear Street, 9th Floor
San Francisco, CA 94105

Dennis D. Ahlers
ESCHELON TELECOM
730 Second Avenue South, Ste. 1200
Minneapolis, MN 55402

Rodney Joyce
SHOOK, HARDY & BACON, LLP
Hamilton Square
600 14th Street, NW, Ste. 800
Washington, DC 20005-2004

Dennis Doyle
ARCH COMMUNICATIONS GROUP
1800 West Park Drive, Suite 250
Westborough, MA 01581-3912

David Conn
Law Group
MCLEODUSA INCORPORATED
6400 C. Street SW
PO Box 3177
Cedar Rapids, IA 52406-3177

Diane Peters
GLOBAL CROSSING
180 South Clinton Avenue
Rochester, NY 14646

Gerry Morrison
MAP MOBILE COMMUNICATIONS, INC.
840 Greenbrier Circle
Chesapeake, VA 23320

Frederick Joyce
ALSTON & BIRD, LLP
601 Pennsylvania Avenue NW
Washington, DC 20004-2601

METROCALL, INC.
6677 Richmond Highway
Alexandria, VA 22306

John E. Munger
MUNGER CHADWICK
National Bank Plaza
333 North Wilmot, #300
Tucson, AZ 85711

Brian Thomas
TIME WARNER TELECOM, INC.
223 Taylor Avenue North
Seattle, WA 98109

Deborah Harwood
INTEGRA TELECOM OF ARIZONA, INC.
19545 NW Von Newmann Drive, Suite 200
Beaverton, OR 97006

Paul Masters
ERNEST COMMUNICATIONS INC.
6475 Jimmy Carter Blvd., Ste. 300
Norcross, GA 30071

Bob McCoy
WILLIAM LOCAL NETWORK, INC.
4100 One Williams Center
Tulsa, OK 74172

Mark Dioguardi
TIFFANY AND BOSCO, P.A.
1850 North Central, Suite 500
Phoenix, AZ 85004

Curt Huttsell
State Government Affairs
Electric Lightwave, Inc.
4 Triad Center, Suite 200
Salt Lake City, UT 84180

Richard M. Rindler
Morton J. Posner
SWIDER & BERLIN
3000 K. Street NW, Ste. 300
Washington, DC 20007

Douglas Hsiao
Jim Scheltema
BLUMENFELD & COHEN
1625 Massachusetts Ave. NW, Ste. 300
Washington, DC 20036

Mark N. Rogers
EXCELL AGENT SERVICES, LLC
2175 W. 14th Street
Tempe, AZ 85281

Rex Knowles
XO
111 E. Broadway, Suite 100
Salt Lake City, Utah 84111

Penny Bewick
New Edge Networks, Inc.
PO Box 5159
Vancouver, WA 98668

A handwritten signature in black ink, appearing to read 'D Hsiao', written over a horizontal line.

ATTACHMENT 1

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>AT&T CORPORATION, Complainant,</p> <p style="text-align:center">v.</p> <p>QWEST CORPORATION, Respondent.</p>	<p>DOCKET NO. FCU-02-2</p>
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ORDER GRANTING REQUEST FOR CONFIDENTIALITY

(Issued August 26, 2002)

On February 27, 2002, AT&T Corporation (AT&T) filed with the Utilities Board (Board) a letter alleging that Qwest Corporation (Qwest) may have entered into interconnection agreements with some competitive local exchange carriers (CLECs), agreements that were not filed with the Board as required by 47 U.S.C. §§ 251(c) and 252(a)-(i).

On April 1, 2002, the Board issued an order docketing AT&T's complaint for investigation and establishing a briefing schedule to determine the scope of the obligation to file interconnection agreements with the Board. The parties filed briefs pursuant to that schedule, and on May 29, 2002, the Board issued an order defining the scope of the obligation to file interconnection agreements, applying that definition

to certain agreements already filed in this docket, and requiring that Qwest either request a hearing in this matter or file any other agreements it may have entered into that are interconnection agreements as defined by the Board.

On July 29, 2002, Qwest submitted a compliance filing consisting of a descriptive pleading and two exhibits. Exhibit A consisted of 11 previously-unfiled agreements that, in Qwest's opinion, fall within the Board's definition of an interconnection agreement. Those agreements are currently being processed as negotiated interconnection agreements pursuant to the Board rules and procedures.

Exhibit B to Qwest's compliance filing consisted of 19 other previously-unfiled agreements between Qwest and a CLEC. Qwest asserted that the Exhibit B agreements are not encompassed within the Board's definition of an interconnection agreement and therefore do not have to be filed with the Board. Qwest stated it was filing these agreements "in the interests of full disclosure, and in order that the Board may examine Qwest's evaluations of the Order's standards to each of the CLEC agreements" Each of the agreements includes a provision requiring the parties to treat the agreement as confidential and Qwest filed a request that the Exhibit B agreements be treated as confidential records until such time as the Board determines that one or more of the agreements constitute an interconnection agreement. Qwest supported the request with an affidavit by a corporate officer, stating that the information constitutes confidential trade secrets under Iowa Code § 550.2(4) (2001). The confidential materials were sealed in a separate envelope

and marked confidential. Qwest cited Iowa Code §§ 22.7(3) and 22.7(6) as authority for confidential treatment of the information.

On August 6, 2002, the Board issued an order in this docket that, among other things, required that any parties to this docket that intended to file comments concerning the status of the Exhibit B agreements must file those comments on or before August 19, 2002. As of August 22, 2002, no comments have been filed, although on August 8, 2002, WorldCom filed a request for confidential treatment of four Exhibit B agreements and Qwest filed a second request for confidential treatment relating to certain additional information regarding the Exhibit B agreements (missing pages that were being filed that date, for example).

Board staff has reviewed the Exhibit B agreements and, based on that review, the Board concludes that the Exhibit B agreements are not negotiated interconnection agreements under 47 U.S.C. § 251 and need not be published or made available to the public pursuant to the federal statute.

Iowa Code § 22.7(6) provides confidential treatment for public records which are reports to government agencies and which, if released, would give advantage to competitors and serve no public purpose. The filed data is a report to a government agency. The application and affidavit support a finding that the information, if released, would provide an advantage to competitors. The release of the information would serve no public purpose. This prong of the § 22.7(6) exception is satisfied when substantial public benefits result from confidential treatment and no tangible public benefits result from release. The Board recognizes that utilities will be more

forthcoming if information of this nature is held confidential. For these reasons, the Board finds the confidential information filed by Qwest on July 29, 2002, and identified as the Exhibit B agreements should be held confidential under the provisions of Iowa Code § 22.7(6).

Because the Board has concluded that the information should be held confidential pursuant to Iowa Code § 22.7(6), the Board will not address the claim that the information should be held confidential pursuant to Iowa Code § 22.7(3). Furthermore, because the Board is granting Qwest's request that all of the Exhibit B agreements be treated as confidential, the requests for confidentiality filed by WorldCom and Qwest on August 8, 2002, are moot.

IT IS THEREFORE ORDERED:

1. The "Request for Confidentiality" filed by Qwest Corporation on July 29, 2002, is granted with respect to the Exhibit B agreements filed by Qwest on that date, pursuant to the provisions of Iowa Code § 22.7(6).
2. The information shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)"b"(3).

3. The requests for confidentiality filed by WorldCom and Qwest on August 8, 2002, are denied because they are moot.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 26th day of August, 2002.

REDACTED

(Exhibit B to Iowa Order)

ATTACHMENT 2

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 SEVENTH PLACE EAST, SUITE 350
ST. PAUL, MINNESOTA 55101-2147**

Gregory Scott	Chair
Edward A. Garvey	Commissioner
R. Marshall Johnson	Commissioner
LeRoy Koppendrayer	Commissioner
Phyllis Reha	Commissioner

<hr/>)	
In the Matter of the Complaint of the)	MPUC Docket No. P-421/C-02-197
Minnesota Department of Commerce)	OAH Docket No. 6-2500-14782-2
Against Qwest Corporation)	MPUC Docket No. P-421/CI-01-1371
<hr/>)	OAH Docket No. 7-2500-14486-2

**QWEST CORPORATION'S WRITTEN REBUTTAL TESTIMONY
OF AUDREY MCKENNEY**

1 I, Audrey McKenney, hereby testify as follows:

2 **Q: WHAT IS YOUR FULL NAME?**

3 A: Audrey Carol McKenney.

4 **Q: COULD YOU DESCRIBE YOUR PRESENT JOB AND WORK**
5 **HISTORY?**

6 A: I am the Senior Vice President, Wholesale Markets Regulatory, at Qwest
7 Services Corporation ("QSC"). I have been performing this function since July 1, 2000,
8 the date of the merger between Qwest International Communications and U S WEST
9 Communications, Inc. Prior to working at QSC, I was the Vice President and Chief
10 Financial Officer for Wholesale Markets and Regulatory Markets at U S WEST
11 Communication, Inc. ("U S WEST"). In my current position at QSC, I am responsible
12 for wholesale regulatory policy issues (including interconnection).

13 **Q: WHAT IS YOUR EDUCATIONAL BACKGROUND?**

14 A: I received my Bachelor of Science degree in Accounting from the
15 University of Colorado in 1981.

16 **Q: HAVE YOU REVIEWED THE SUPPLEMENTAL TESTIMONY**
17 **OF W. CLAY DEANHARDT?**

18 A: Yes, I have. I would like to respond to some of his allegations regarding
19 Qwest Communications Corporation's ("QCC") and Qwest Corporation's ("QC")
20 contractual relationship with McLeod. I was involved with the negotiation of certain
21 agreements between QCC, QC and McLeod in the fall of 2000 and have personal
22 knowledge regarding both the negotiation process and the terms of those agreements.

1 **Q: COULD YOU DESCRIBE THE RELATIONSHIP BETWEEN QC**
2 **AND MCLEOD PRIOR TO AND IMMEDIATELY FOLLOWING THE**
3 **MERGER OF QWEST AND U S WEST?**

4 A: The relationship between the parties prior to merger was fairly
5 contentious. There were a number of open issues, but the most predominant one was the
6 pricing for unbundled network element platform (“UNE-P”) lines. QC’s position was
7 that if McLeod wanted to convert from resold (primarily Centrex-related) access lines it
8 was currently purchasing to UNE-P, McLeod would be required to pay the full amount of
9 non-recurring charges and all monthly recurring charges, and voice messaging and DSL
10 were not available with the UNE_P product offering. Immediately following the merger,
11 the relationship between the parties started to improve. The new Qwest was very
12 supportive of the wholesale business segment. As a result, QC and McLeod began
13 discussing how McLeod could convert its resold access lines to UNE- P in a way that was
14 financially beneficial to both companies. McLeod desired a single, state-wide rate,
15 coupled with flat-rated usage. In addition, McLeod provided state-specific strike prices,
16 or its’ targeted price, it desired. As a result of the complexity of their request, the
17 negotiations process took months. Finally, we were able to resolve all the issues through
18 a custom UNE-P solution called UNE Star.

19 **Q: PLEASE DESCRIBE THE UNE-STAR PLATFORM.**

20 A: QC has two different types of unbundled network element platforms
21 (“UNE-P”) available to its wholesale customers. The first, referred to primarily as UNE-
22 P, provides to the customer a platform of a combination of services that, when bundled
23 together, resembles residential or business basic exchange service with features. This

1 standard UNE-P product is available to all CLECs as a result of our standard or filed
2 interconnection agreements.

3 The second UNE-P product, which is included in a publicly filed interconnection
4 agreement and is available to other CLECs through the opt-in process, is known as UNE-
5 Star. Similar to our standard UNE-P, this product provides our customers a platform of a
6 combination of services that, when bundled together, resembles business basic exchange
7 service, including Centrex-type services. McLeod is one of two CLECs that operate in
8 Minnesota that purchase UNE-Star, which is also sometimes referred to as "UNE-M"
9 when provided to McLeod. Again, in response to McLeod's desires, Qwest provided this
10 platform because, among other things, McLeod and another CLEC desired a state-wide,
11 weighted average rate for UNE-P loop elements for their business customers, and flat-
12 rated tiered pricing for certain interconnection usage elements, were willing to pay for
13 features, and were willing to pay a premium for our back room support.. These rates
14 were negotiated and filed as amendments to these carriers' existing interconnection
15 agreements and were subsequently approved by the Minnesota Public Utilities
16 Commission ("the Commission"). Exhibit ACM-1 is a true and correct copy of an
17 interconnection agreement amendment that, to the best of my knowledge, was filed with
18 the Commission that describes the UNE-Star pricing negotiated by McLeod. Exhibit
19 ACM-1 was produced and maintained by QC in the regular course of business for filed
20 interconnection agreements and amendments that are generally available to all carriers.

21 **Q: WAS UNE-STAR AVAILABLE TO OTHER CLECs?**

22 **A:** Yes. UNE-Star was available to all other carriers through the opt-in
23 provision as part of the interconnection process. Several carriers, including Ionex, U S
24 Link, and Advanced Telecommunications Group, approached QC about UNE Star, but to

1 the best of our knowledge, they ultimately decided against it. I cannot explicitly state
2 why these customers did not opt for UNE-Star. However, based on feedback I received
3 from customers, I can only deduce that they did not want to pay a premium rate because
4 they differed from McLeod with respect to feature set demands, geographic distributions,
5 and product mix between Centrex and plain old telephone service ("POTS"). Some of
6 them also planned to assess lower switched access rates to the IXCs than McLeod.
7 Additionally, some of them preferred to await the outcomes of future cost docket
8 proceedings, with the expectation that QC's rates would be declining for the products
9 they were purchasing. QC also believes that these providers had different backroom
10 costs, than McLeod. Finally, QC believes that these providers may not have been willing
11 to make the long-term volume and purchase commitment for the product or move to a
12 bill-and-keep arrangement for internet-related traffic, two provisions that made the UNE-
13 Star product economically -effective from QC's standpoint. .

14 **Q: HOW WAS UNE-STAR PRICED TO MCLEOD?**

15 A: McLeod proposed to QC state-specific price points. QC modified or
16 accepted these prices for the UNE-Star platform after ensuring that it was covering its
17 weighted average costs. The prices ultimately adopted reflected a weighted average price
18 based on its product mix, the actual end-user access line demand and forecasts provided
19 by McLeod in the de-averaged zones, and included recovery of the cost of the various
20 features and QC's underlying back-room costs. The initial pricing included a flat-rate
21 local usage component, which utilizes a tiered approach to the average local switching
22 business usage assumption consistent with QC's cost docket proceedings. Because some
23 of these rate elements were priced at substantially less or at zero by some state

1 commissions, this made UNE-Star more expensive than UNE-P. Again, the UNE-Star
2 pricing that I am describing was filed and approved by the Commission.

3 **Q: IN ADDITION TO THE HIGHER PURCHASE PRICE FOR UNE-**
4 **STAR, DID QC IMPOSE ANY OTHER CONDITIONS ON CLECS**
5 **PURCHASING UNE-STAR?**

6 A: Yes. Because UNE-Star entailed significant development and
7 implementation costs, QC required CLECs wishing to purchase the UNE-Star platform to
8 make total and annual minimum purchase commitments over a multi-year minimum
9 term, which, conceptually, is very similar to our private line services tariff. Other
10 requirements included imposing a short-fall penalty if the CLEC did not meet those
11 minimum commitments; "bill and keep" for reciprocal compensation, including Internet-
12 bound traffic ("ISP traffic"); a one-time, lump sum conversion charge to convert the
13 embedded base; and restricting the offering to business customers (recently, we removed
14 this restriction from the UNE- Star product offering). Lastly, QC requested the CLEC to
15 provide an ongoing, updated, geographic end-user customer volume and loop distribution
16 forecast for purposes of adjusting price points.

17 **Q: MR. DEANHARDT TESTIFIED THAT QC ORALLY AGREED TO**
18 **GIVE MCLEOD A VOLUME PURCHASE DISCOUNT OF UP TO 10%. IS**
19 **THAT CORRECT?**

20 A: No. During the negotiations of the UNE-Star platform, McLeod
21 repeatedly requested that, because McLeod was one of our biggest customers, it should
22 receive a volume term discount from all of its services. We discussed McLeod's request
23 with them, including purchases made by McLeod from both QC and QCC, but Qwest
24 never agreed to provide such a discount. To the contrary, we told McLeod that we would

1 neither provide nor agree to provide, either orally or in writing, a volume discount plan as
2 they proposed.

3 In addition, the idea that McLeod would accept an oral agreement with Qwest for
4 a term of such significance simply does not make sense, in my experienced business
5 judgment. McLeod and U S WEST had an acrimonious relationship, and McLeod was
6 still dealing with many of the same people when Qwest took over U S WEST. As
7 evidence of this point, Blake Fisher repeatedly insisted that all agreements between
8 McLeod and Qwest that we were negotiating at this time be in writing in case, in Mr.
9 Fisher's words, Greg Casey or I "got hit by a bus." Also in Exhibit 451, an e-mail from
10 Stacey Stewart dated July 20, 2000, to Blake Fisher, under the assessment section,
11 McLeod states "we need to be sure we ask for exactly what we want, because we may
12 just get it, and then we have nobody else to blame but us." I believe that this shows that
13 McLeod was aware of the need to document any agreements because they were still
14 cautious about the relationship.

15 **Q: COULD YOU DESCRIBE THE NEGOTIATION PROCESS THAT**
16 **LED TO THE EXECUTION OF THE PURCHASE AGREEMENTS ON**
17 **OCTOBER 26, 2000?**

18 **A:** As I mentioned previously, the most predominant issue between the
19 companies was McLeod's desire for QC, U S WEST at the time, to make UNE-P
20 available under their proposed terms and conditions, without the associated full
21 nonrecurring charges. Through February 19, 2000, ILECs had no obligation to provide
22 UNE-P to customers. Once it became clear that QC was required to offer UNE-P,
23 McLeod began requesting to move away from resale and onto an unbundled platform. In

1 addition to the UNE-P issue, both parties were working to improve the relationship after
2 the Qwest / U S WEST merger.

3 QC would have preferred at that time to have McLeod continue operating as a
4 reseller, primarily because of the product profitability and issues related to a massive
5 conversion to UNE-P Centrex. In particular, McLeod resold mostly QC's Centrex
6 services, and we were in the early stages of deploying of UNE-P Centrex. Also, McLeod
7 wanted to maintain as much status quo as possible in terms of features (including voice
8 messaging) and processes for order entry and provisioning that they had become
9 accustomed to over the last several years. Therefore, the parties initially discussed
10 deeper discounts off of resale scenarios in the hopes of keeping McLeod on resale.

11 Several of the documents attached as exhibits to Mr. Deanhardt's supplemental
12 testimony from the initial period of the negotiations in July , August, and September
13 2000, and which he mistakenly describes as relating to a global volume discount, reflect
14 these discussions about various attempts to develop deeper discounts off resale prices.
15 Exhibit 414, which was created in July and August 2000, contains some of QC's internal
16 financial worksheets regarding the impact of a deeper resale discount through a growth
17 commitment plan. Again, most of this analysis was done in response to McLeod's desire
18 for a deeper discount from then current resale prices and a volume term commitment
19 related only to resold lines. Consistent with our volume term commitments offered
20 through tariff for private line services, we felt that the type of proposals in Exhibit 414
21 might be a good solution for the customer, especially because they were mainly buying
22 resold lines from us.

23 As demonstrated in Exhibit 456, in July 2000, we determined that McLeod was
24 primarily buying in-region services by contacting our out of region sales group. Also,

1 since we had just merged with Qwest, I called our out of region pricing team to
2 understand typical industry pricing arrangement that CLECs and IXC's, companies like
3 McLeod, were experiencing in the market place out of region. The notes on page two of
4 that document explains the typical pricing for out of region services.

5 This concept was further supported by the letter from Blake Fisher to Greg Casey
6 dated August 15, 2000 (Exhibit 415), which I considered as the "wish list" from
7 McLeod. The first paragraph makes it clear that at that time we were discussing a
8 "reduction in rates associated with resale". The presentations and documents contained
9 in Exhibit 417 were QC's attempts to offer McLeod a discount plan limited to resale of
10 finished services, which would have resulted in a deeper resale discount if accepted,
11 instead of the standard unbundled platform.

12 At some point not long after that, it became clear that our discussions regarding a
13 deeper resale discount through a volume incentive limited to resale services were not be
14 satisfactory to McLeod. We ultimately discovered that the primary reason was that our
15 resale discount proposals could not off-set the potential amount of switched access
16 revenues that McLeod believed they could charge, using their interstate and intrastate
17 rates, to Inter Exchange Carriers ("IXCs"), if they were able to use a UNE-P platform.
18 At this time, many of the CLECs' interstate and intrastate switched access rates were
19 significantly higher than QC's tariff rates. In fact at the time, some of the CLEC's
20 interstate rates were above \$0.05, while QC was in the process of lowering the same rate
21 to \$0.0055.

22 **Q: WHAT HAPPENED AFTER THAT?**

23 **A:** We continued negotiating and working to understanding what McLeod
24 wanted from QC. . The Outline of Major Terms dated September 19, 2000 (Exhibit 416)

REDACTED

(Pages 10-18)

1 and an honest mistake on our part on several levels. First, the people responsible in my
2 organization were last involved in the discussions when the take or pay amounts were a
3 floating value and not a fixed dollar amount that were subsequently agreed to and were
4 the final terms of the agreement. They were not part of or aware of the fixed dollar
5 amount that was agreed to by both parties subsequent to the Saturday, October 21
6 discussions, since I left on vacation. Also, we had a process break-down on distributing
7 copies of the final agreement to the appropriate individuals. Finally, my organization was
8 also unaware of what QCC was purchasing from McLeod, a disconnect exacerbated by
9 post-merger integration problems. As a result, the take or pay shortfall payments were
10 calculated using a flawed methodology. Again, an honest mistake was made by us.

11 **Q: WHY HAS QCC NOT MADE ANY PAYMENTS TO MCLEOD**
12 **SINCE THE JANUARY 18, 2002 PAYMENT?**

13 **A:** As discussed above, when we realized our mistake, a dispute arose
14 between QCC and McLeod, and QCC realized that it had overpaid its 2001 obligation.
15 Anthony Washington referred to those issues in an email to Lori Deutmeyer dated May
16 22, 2002 in which he stated, "I was informed that a meeting between Qwest and Steve
17 Gray & Randy Rings, held on April 30th, put a hold on completing the 4Q payment until
18 an undisclosed issue was resolved." That email is attached as Exhibit ACM-2. Exhibit
19 ACM-2 was produced and maintained in the ordinary course of business. The
20 "undisclosed issue" was a dispute in which McLeod claims that QCC owes McLeod
21 additional monies related to 2001. In contrast, QCC contends that it has met and
22 exceeded its 2001 obligation based on the total payments made, since actual purchases by
23 QCC have not been included in the billing for off-set.

REDACTED

(Pages 20-28)

1 A: Yes it does.

2

1

I declare under penalty of perjury of the laws of the State of Minnesota and the
United States that the foregoing is true and correct.

DATED AUDREY MCKENNEY

Subscribed and sworn before me on this __ day of August, 2002.

NOTARY PUBLIC

My Commission expires on: _____

SEAL



Law Department
McLeodUSA Technology Park
6400 C Street SW
Cedar Rapids, IA 52406-3177
Phone: (319) 790-6480
Facsimile: (319) 790-7901

DEC 21 2000

JT, ΔS

December 20, 2000

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

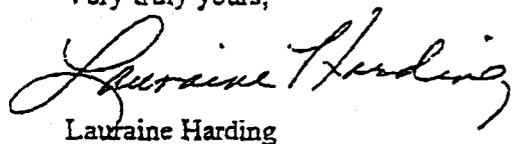
Re: In the Matter of the Joint Application for Approval of the Eighth Amendment to the Interconnection Agreement between McLeodUSA Telecommunications Services, Inc. and Qwest Corporation.

Dear Dr. Haar:

Enclosed for filing with the Minnesota Public Utilities Commission are an original and sixteen copies of the above referenced amendment to the Interconnection Agreement. The original Interconnection Agreement was approved by the Minnesota Public Utilities Commission on January 30, 1998.

Also enclosed is an extra copy of this letter. Please date stamp the extra copy when filed; and return it to me in the enclosed self-addressed stamped envelope. If you have any questions or require additional information, please do not hesitate to contact me. Thank you for your consideration.

Very truly yours,



Lauraine Harding

Attachment
cc: Attached Service List

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chairman
Edward A. Garvey	Commissioner
Joel Jacobs	Commissioner
R. Marshall Johnson	Commissioner
LeRoy Koppendrayer	Commissioner

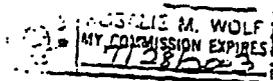
Re: In the Matter of the Joint Application for Approval of the Eighth Amendment to the Interconnection Agreement between McLeodUSA Telecommunications Services, Inc. and Qwest Corporation

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Lauraine Harding, being first duly sworn, deposes and says:

That on the 22nd day of December, 2000, at the City of Cedar Rapids, State of Iowa, she served the annexed filing on the party designated therein, by overnighting to them a copy thereof, enclosed in an envelope, postage prepaid, directed to said address or last known address.



Lauraine Harding

Lauraine Harding

Subscribed and sworn to me
This 20th day of December, 2000.

Rosalie M. Wolf

Notary Public

Service List

Dr. Burl W. Haar
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Linda Chavez
Minnesota Department of Public Service
121 7th Place East, Suite 200
St. Paul, MN 55101

Qwest Corporation
Director - Interconnection Compliance
1801 California Street, Room 2410
Denver, CO 80202-1984

Qwest Corporation
Attn: Jim Gallegos
Corporate Counsel, Interconnection
1801 California Street, 38th Floor
Denver, CO 80202

Jason Topp
Qwest Corporation
200 South Fifth Street, Room 395
Minneapolis, MN 55402

Amendment No. 8 to the Interconnection Agreement
Between
McLeodUSA Telecommunications Services, Inc.
and
Qwest Corporation
f.k.a. U S WEST Communications, Inc.
for the State of Minnesota

This Amendment No. 8 ("Amendment") is made and entered into by and between McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") and Qwest Corporation f.k.a. U S WEST Communications, Inc. ("Qwest").

RECITALS

WHEREAS, McLeodUSA and Qwest entered into an Interconnection Agreement for service in the state of Minnesota which was approved by the Minnesota Public Utilities Commission on January 30, 1998 (the "Agreement"); and

WHEREAS, McLeodUSA and Qwest desire to amend the Agreement by adding the terms, conditions and rates 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 terms, conditions and rates for the business-to-business relationship as set forth in Amendment 8 and Attachment 3.2 attached hereto and incorporated herein.

2. Effective date.

This Amendment shall be deemed effective upon approval by the appropriate state Commission; however, the Parties agree to implement the provisions of this Amendment effective October 1, 2000.

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.

AMENDMENT 8

INTERCONNECTION AGREEMENT AMENDMENT TERMS

This Amendment Agreement ("Amendment") is made and entered into by and between McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") and Qwest Corporation ("Qwest") (collectively, the "Parties") on this 26th day of October, 2000.

The Parties agree to file this Amendment as an amendment all Interconnection Agreements ("Agreements" and, singularly, "Agreement") between them, now in effect or entered into prior to December 31, 2003, with the Amendment containing the following provisions:

1. This Amendment is entered into between the Parties based on the following conditions, and such conditions being integrally and inextricably are a material part of this agreement:

1.1 McLeodUSA purchased, as of the end of 1999 over 200,000 local exchange lines for resale from Qwest (throughout the 14-state area where Qwest is an incumbent local exchange carrier).

1.2 Qwest and McLeodUSA currently have an agreement, on a region-wide basis, for the exchange of local traffic, including Internet-related traffic, on a "bill and keep" basis, that provides for the mutual recovery of costs through the offsetting of reciprocal obligations for local exchange traffic which originates with a customer of one company and terminates to a customer of the other company, provided however, that these provisions will not affect or avoid the obligations to pay the rates set out on Attachment 3.2.

1.3 The Parties wish to establish a business-to-business relationship and have agreed that they will attempt to resolve all differences or issues that may arise under the Agreements or this Amendment under the escalation process to be established between the parties, and modified if appropriate.

1.4 The Parties agree that the terms and conditions contained in this Amendment are based on current characteristics of McLeodUSA, which includes service to business and Centrex-related customers and includes a fair representation of all businesses, with no large proportion of usage going to a particular type of business.

1.5 The Parties agree that the terms and conditions contained in this Amendment are based on the characteristics of McLeodUSA's traffic patterns, which does not include identifiable usage by any particular type of user.

1.6 This Amendment shall be deemed effective on October 1, 2000, subject to approval by the appropriate state commissions, and the parties agree to implement the terms of the Amendment effective October 1, 2000. This Amendment will be

AMENDMENT 8

incorporated in any future Agreements, but nothing in any new Agreement will extend the termination date of this Amendment or its terms beyond the term provided herein. Nothing in this Amendment will extend the expiration date of any existing interconnection agreement. This Amendment and the underlying Agreement shall be binding on Qwest and McLeodUSA and their subsidiaries, successors and assigns.

1.7 In interpreting this Amendment, all attempts will be made to read the provisions of this Amendment consistent with Agreements and all effective amendments. In the event that there is a conflict between this Amendment and an Agreement or previous amendments, the terms and conditions of this Amendment shall supersede all previous documents.

1.8 Except as modified herein, the provisions of the Agreements shall remain in full force and effect. Neither the Agreements nor this Amendment may be further amended or altered except by written instrument executed by an authorized representative of both Parties. This specifically excludes amendments resulting from regulatory or judicial decisions regarding pricing of unbundled network elements, which shall have no effect on the pricing offered under this Amendment, prior to termination of this Amendment.

1.9 The Parties intending to be legally bound have executed this Amendment effective as of October 1, 2000, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

1.10 Unless terminated as provided in this section, the initial term of this Amendment is from the date of signing until December 31, 2003 ("Initial Term") and this Amendment shall thereafter automatically continue until either party gives at least six (6) months advance written notice of termination. This Amendment can only be terminated during the Initial Term in the event the Parties agree.

1.11 In the event of termination, the pricing, terms, and conditions for all services and network elements purchased under this Amendment shall immediately be converted, at the option of McLeodUSA, to either other prevailing prices for combinations of network elements, or to retail services purchased at the prevailing wholesale discount. In either case, if and to the extent conversion of service is necessary, reasonable and appropriate cost-based nonrecurring charges will apply.

1.12 All factual preconditions and duties set forth in this Amendment are, are intended to be, and are considered by the parties to be, reasonably related to, and dependent upon each other.

1.13 To the extent any Agreement does not contain a force majeure provision, then if either party's performance of this Amendment or any obligation under this Amendment is prevented, restricted or interfered with by causes beyond such parties reasonable control, including but not limited to acts of God, fire, explosion, vandalism

AMENDMENT 8

which reasonable precautions could not protect against, storm or other similar occurrence, any law, order, regulation, direction, action or request of any unit of federal, state or local government, or of any civil or military authority, or by national emergencies, insurrections, riots, wars, strikes or work stoppages or vendor failures, cable cuts, shortages, breach or delays, then such party shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference (a "Force Majeure").

1.14 Neither party will present itself as representing or jointly marketing services with the other, or market its services using the name of the other party, without the prior written consent of the other party.

2. In consideration of the agreements and covenants set forth above and the entire group of covenants provided in section 3, all taken as a whole and fully integrated with the terms and conditions described below and throughout this Amendment, with such consideration only being adequate if all such agreements and covenants are made and are enforceable, McLeodUSA agrees to the following:

2.1 To pay Qwest \$43.5 million to convert to the Platform described herein and in Attachment 3.2.

2.2 Based on all the terms and conditions contained herein, McLeodUSA may also purchase DSL and voice mail (at full retail rates) from Qwest for resale.

2.3 During each of the three calendar years of this Amendment, to maintain for the purpose of providing service to McLeodUSA's customers, no fewer than 275,000 local exchange lines purchased from Qwest, and to maintain on Qwest local exchange lines to end users at least seventy percent (70%) (in terms of physical non-DS1/DS3 facilities) of McLeodUSA's local exchange service in the region where Qwest is the incumbent local exchange service provider. In addition, beginning in 2001, at least 1000 lines will be maintained in each state (including no less than 125,000 lines in the state of Iowa) in which Qwest is the incumbent local exchange service provider. For purposes of this provision, local exchange lines purchased include lines purchased for resale and unbundled loops, whether purchased alone or in combination with other network elements. This minimum line commitment will be reduced proportionally in the event Qwest sells any exchanges where it is currently the incumbent local exchange service provider.

2.4 To place orders for the product offered in this amendment, and for features associated with the product, using (at McLeodUSA's option) primarily through either IMA or EDI electronic interfaces offered by Qwest.

2.5 To remain on a "bill and keep" basis for the exchange of local traffic and

AMENDMENT 8

Internet-related traffic, with Qwest, throughout the territories where Qwest is currently the incumbent local exchange service provider until December 31, 2002.

2.6 To enter into and maintain interconnection agreements, or one regional agreement, covering the provision of Products in each state of the entire territory where Qwest is the incumbent local exchange service provider.

2.7 To provide Qwest accurate daily working telephone numbers of McLeodUSA customers to allow Qwest to provide daily usage information to McLeodUSA so that McLeodUSA can bill interexchange or other companies switched access or other rates as appropriate.

2.8 To provide Qwest with rolling 12 month forecasted line volumes to the central office level for unbundled loops, and otherwise where marketing campaigns are conducted, updated quarterly.

2.9 To hold Qwest harmless in the event of disputes between McLeodUSA and other carriers regarding the billing of access or other charges associated with usage measured by a Qwest switch; provided that Qwest agrees to cooperate in any investigation related to such a dispute to the extent necessary to determine the type and accuracy of such usage.

3. In consideration of the agreements and covenants set forth above and the entire group of covenants provided in section 2, all taken as a whole and fully integrated with the terms and conditions described below and throughout this Amendment, with such consideration only being adequate if all such agreements and covenants are made and are enforceable, Qwest agrees to the following:

3.1 To waive and release all charges associated with conversion from resold services to the unbundled network platform and for terminating McLeodUSA contracts for services purchased from Qwest for resale as described in this amendment.

3.2 To provide throughout the term of this Amendment the Platform and Products described herein and in Attachment 3.2, regardless of regulatory or judicial decisions on components of an unbundled network element platform, upon the rates, terms and conditions described herein and in Attachment 3.2.

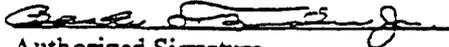
3.3 To provide daily usage information to McLeodUSA, for the working telephone numbers supplied to Qwest by McLeodUSA, so that McLeodUSA can bill interexchange or other companies switched access or other rates as appropriate.

3.4 To remain on a "bill and keep" basis for the exchange of local traffic and Internet-related traffic with McLeodUSA, throughout the territories where Qwest is currently the incumbent local exchange service provider until December 31, 2002.

3.5 To provide (at McLeodUSA's option) IMA and EDI electronic interfaces to adequately support the product described in section 3.2.

McLeodUSA Telecommunications
Services, Inc.

Qwest Corporation


Authorized Signature

Authorized Signature

Blake O. Fisher
Name Printed/Typed

Name Printed/Typed

Group Vice President
Title

Title

October 26, 2000
Date

October 26, 2000
Date

3.5 To provide (at McLeodUSA's option) IMA and EDI electronic interfaces to adequately support the product described in section 3.2.

McLeodUSA Telecommunications
Services, Inc.

Authorized Signature

Blake O. Fisher
Name Printed/Typed

Group Vice President
Title

October 26, 2000
Date

Qwest Corporation



Authorized Signature

GREGORY M. CASEY
Name Printed/Typed

EXEC. VP.
Title

October 26, 2000
Date

Attachment 3.2

- I. Performance by McLeodUSA of the covenants and agreements in section 2 of the Amendment to which this Attachment is a part.
- II. Performance by Qwest of the covenants and agreements in section 3 of the Amendment to which this Attachment is a part.
- III. State recurring rates for lines, adjustments, charges, other terms and conditions, included and excluded platform features, are at the end of this attachment, and are subject to and clarified by the following:
 - A. In determining state-wide usage McLeodUSA agrees to allow Qwest to audit its records of usage of the platform on a quarterly basis. If average usage exceeds the 525 minutes per month for a three month period, or the agreed upon measurement period, on a state-by-state basis, all platform service shall be increased by the appropriate increment. The first incremental audit will be conducted during December 2000. If average usage is above 525 minutes on a state-wide basis, the incremental usage element will not be applied for January, February and March usage, or the agreed upon measurement period. The second incremental audit will be conducted in March of 2001 based upon December, January and February usage, or the agreed upon measurement period. If the average usage is above 525 minutes for that quarter, then the appropriate increment usage element(s) will be applied to April, May and June usage, or the agreed upon measurement period. All audits will follow on a rolling quarterly basis, and all increments shall be applied on a rolling basis at the state level.
 - B. The rates provided for by this platform do not apply to usage associated with toll traffic. Additional local usage charges will apply to usage associated with toll traffic.
 - C. Platform rates include only one primary listing per telephone number.
 - D. Rates for voice messaging and DSL service are retail rates and are offered conditioned on paragraph I above where such services are available.
 - E. Rates associates with miscellaneous charges, or governmental mandates, such as local number portability, shall be passed through to McLeodUSA.
 - F. The Platform rates provided for in this Amendment shall only apply to additions to existing CENTREX common blocks established prior to October 1, 2000, and only apply to business local exchange customers served through this unbundled network element platform where facilities exist. Appropriate charges for any new CENTREX-related services or augments where facilities do not exist will apply. This Amendment only

Attachment 3.2

applies to platform services provided for business users and users of existing CENTREX common blocks. Qwest will not provide McLeodUSA any new CENTREX common blocks. Appropriate nonrecurring charges will apply to any disconnects, charges or additions to this platform. These rates do not apply to basic residential exchange (IFR) service.

- G. Any features or functions not explicitly provided for in this Amendment shall be provided only for a charge (both recurring and nonrecurring), based upon Qwest's rates to provide such service in accordance with the terms and conditions of the appropriate tariff or Agreement for the applicable jurisdiction.

PRICES FOR OFFERING

	Platform recurring	Additional charge for each 50 Minute increment > 525 MOU/Month
AZ	30.80	0.280
CO	34.00	0.295
IA	26.04	0.270
ID	33.15	0.295
MN	27.00	0.205
MT	34.95	0.300
ND	28.30	0.260
NE	35.95	0.300
NM	27.15	0.140
OR	26.90	0.170
SD	29.45	0.345
UT	22.60	0.270
WA	24.00	0.195
WY	33.40	0.360

FEATURES INCL IN FLAT RATED UNE- BUSINESS

Call Hold
 Call Transfer
 Three-Way Calling -
 Call Pickup
 Call Waiting/Cancel Call Waiting
 Distinctive Ringing
 Speed Call Long - Customer Change
 Station Dial Conferencing (6-Way)
 Call Forwarding Busy Line
 Call Forwarding Don't Answer
 Call Forwarding Variable
 Call Forwarding Variable Remote
 Call Park (Basic - Store & Retrieve)
 Message Waiting Indication A/V

Attachment 3.2

FEATURES INCL'IN EXISTING CENTREX COMMON BLOCKS

Call Hold
Call Transfer
Three-Way Calling
Call Pickup
Call Waiting/Cancel Call Waiting
Distinctive Ringing
Speed Call Long - Customer Change
Station Dial Conferencing (6-Way)
Call Forwarding Busy Line
Call Forwarding Don't Answer
Call Forwarding Variable
Call Park (Basic - Store & Retrieve)
Message Waiting Indication A/V
Centrex Management System (CMS)
Station Mssg Detail Recording (SMDS)
Data Call Protection
Hunting Billing
Individual Line Billing
Intercept
Intrasystem Calling
Intercom
Night Service
Outgoing Trunk Queuing
Line Restrictions
Touch Tone
Directed Call Pickup
AIOD
Dial 0
Automatic Call Back Ring Again
Direct Inward Dialing
Direct Outward Dialing
Executive Busy Override
Last Number Redial
Make Set Busy
Network Speed call
Primary Listing

EXHIBIT ACM-2

REDACTED

REDACTED

EXHIBIT ACM-4

REDACTED

REDACTED