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BEFORE THE ARIZONA CORPORATION COMMISSION

- GARY PIERCE
Chairman
- PAUL NEWMAN
Commissioner
- SANDRA D. KENNEDY
Commissioner
- BOB STUMP
Commissioner
- BRENDA BURNS
Commissioner

IN THE MATTER OF QWEST)
 CORPORATION'S PETITION)
 FOR ARBITRATION AND)
 APPROVAL OF)
 INTERCONNECTION)
 AGREEMENT WITH NORTH)
 COUNTY COMMUNICATIONS)
 CORPORATION OF ARIZONA)
 PURSUANT TO SECTION)
 252(B) OF THE)
 COMMUNICATIONS ACT OF)
 1934 AS AMENDED BY THE)
 TELECOMMUNICATIONS ACT)
 OF 1996 AND APPLICABLE)
 STATE LAWS.)

DOCKET NOS. T-03335A-09-0383
 T-01051B-09-0383

QWEST'S EXCEPTIONS
 JULY 7, 2011

Arizona Corporation Commission
DOCKETED
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I. INTRODUCTION

1. Pursuant to A.A.C. R14-3-110(B), and the schedule established in the June 28, 2011 Recommended Opinion and Order, Qwest Corporation ("Qwest"), hereby submits its exceptions/request for clarification in connection with the Recommended Opinion and Order ("Order"), of the Administrative Law Judge in this arbitration with North County Communications Corporation of Arizona ("NCC").

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II. BACKGROUND

2. Qwest¹ and NCC are parties to an interconnection agreement (“ICA”) dated November 22, 1997. After many months of negotiations, and as set forth more fully in the Recommended Opinion and Order, Qwest and NCC participated in an arbitration proceeding to resolve the issues raised by Qwest’s petition for arbitration, in which Qwest sought an updated ICA with NCC.

3. The Administrative Law Judge resolved the disputed issues in the Order that is at issue here. The Order adopts Qwest’s position for the vast majority of the issues, and on the two issues for which Qwest is filing these exceptions, the Order largely adopted Qwest’s position as well, with certain modifications. Qwest seeks clarification, or modification, of the Order on two issues related to interconnection (reciprocal compensation and transport facilities), as follows.

The Cap on Minutes of Use Should Apply to “Total Minutes”, not “Compensable Minutes”

4. Qwest’s proposal with regard to the terms and conditions for interconnection would allow NCC to continue to interconnect via MF signaled trunks, as opposed to the newer, and more widely used SS7. In connection with the continued use of MF signaling, Qwest proposed a cap on *total* minutes of use that would form the basis for calculating the compensable minutes of use (i.e., local traffic) for purposes of reciprocal compensation. (Order ¶ 58, emphasis added). The Order states that Qwest’s proposed cap of an average of 400,000 minutes of use (“mou”) per month for all in-service DS1s was calculated based on NCC’s current usage pattern and Qwest’s best efforts to analyze those minutes.

¹ On April 1, 2011, Qwest’s parent company, Qwest Communications International Inc., was acquired by CenturyLink, Inc., in a transaction previously approved by this Commission. The Qwest entity that is a party to this proceeding, and that provides interconnection and local telephone service, continues to exist under the Qwest name at this time.

1 The Order further notes that NCC did not provide evidence of its own on this issue, and
2 did not contest Qwest's calculations. (Order ¶ 73).

3
4 5. Paragraph 77 of the Order largely adopts Qwest's proposal, with three modifications:
5 first, that the cap relates to "compensable minutes of use"; second, that the cap is
6 calculated on an average basis over all in-service DS1s; and, third, that language should
7 be added to allow either party to request a modification to the cap, based on verifiably
8 accurate records. Qwest agrees with the latter two modifications, and requests
9 clarification or reconsideration only of the apparent change from "total" minutes to
10 "compensable" minutes.

11 6. The Order seems to change the cap on minutes of use so that the 400,000 mou cap applies
12 to "compensable minutes" rather than "total minutes". It is not clear if the Order
13 intended that result, or if this was simply a reference to the cap in the context of the
14 required modification to the language in Section 7.8.1.2 to clarify that the cap applies on
15 average across all DS1's in service.²

16 7. The latter interpretation is consistent with Qwest's position during the hearing, and with
17 Qwest's offer to modify Section 7.8.1.2 of the ICA to reflect the average minutes of use
18 across all DS1's in service. However, under Qwest's proposal, the cap should apply to
19 total minutes, not just compensable minutes. As noted in the Order, there is no evidence
20 that supports any other cap, and the 400,000 figure was not contested by NCC. Based on
21 all of the evidence in the record, 400,000 minutes of use is a reasonable place to start,
22 and, if the cap needs to be modified based on actual traffic, the provision to renegotiate
23 the cap would be applicable.

25 ² This confusion may have arisen from NCC's closing brief, which discussed "compensable minutes" at pages 5-7.
26 However, Qwest's testimony and brief discussed only total minutes of use, not "compensable minutes". This makes
sense because it is unknown how many minutes will be compensable until each month's usage is evaluated.

1 8. Thus, Qwest respectfully seeks clarification or modification of the Order such that the
2 cap on minutes of use is a cap on total minutes, from which compensable minutes are
3 then calculated. This is consistent with Qwest's testimony and evidence, upon which the
4 Order relies to reach its conclusion. Attachment A to this pleading contains the language
5 that Qwest originally proposed to address this issue, along with the modifications that
6 Qwest proposes in redline format.

7 ***The Calculation and Level of the Relative Use Factor ("RUF")***
8

9 9. The Relative Use Factor, or RUF, is applicable to local interconnection trunks when
10 traffic data is available, to allow each carrier to account for its proportion of traffic, and
11 adjust billing accordingly. (Order ¶ 86, citing Albersheim Direct at page 19). The RUF
12 is a factor that is calculated based on the amount of traffic flowing between the parties,
13 and assigns financial responsibility to the parties based on each party's relative
14 proportion of traffic. Qwest's proposed ICA contains the standard language for the
15 calculation of the RUF, and includes Exhibit H, which details how the RUF is calculated.
16 The starting allocation of responsibility is 50/50 if the parties have not exchanged local
17 interconnection service traffic previously, subject to renegotiation after traffic patterns
18 are established.

19 10. The Order, in paragraph 93, adopts Qwest's proposal regarding the RUF, but changes the
20 starting percentage from 50/50 to 99% Qwest and 1% NCC, based on the historic traffic
21 patterns. That new RUF is acceptable to Qwest, but Qwest asks the Commission to
22 clarify or modify this provision of the Order so that the change in the RUF is coincident
23 with the change in the NECA billing percentages, as originally offered by Qwest. (Order
24 ¶ 88). Such a modification/clarification is also consistent with the language in Exhibit H
25 to the ICA. (Order ¶ 79, under the heading "Minutes that are CLEC's responsibility", the
26

1 fifth bullet point shows that jointly provided switched access minutes are the CLEC's
2 responsibility unless joint NECA 4 billing percentages have been filed). The Order
3 adopts Exhibit H, but because the Order does not specifically reference the NECA billing
4 percentages in connection with the 99%/1% allocation on the RUF, Qwest seeks
5 clarification to avoid future disputes on this question.

6
7 11. The issue here is that Qwest is taking 99% of the financial responsibility for the local
8 transport facility. However, as recognized in Exhibit H to the proposed ICA, other
9 traffic, including switched access traffic, may be sent across that facility. If switched
10 access traffic is carried on those local interconnection trunks, (and Qwest is financially
11 responsible for the facility from a local traffic standpoint for non-ISP and non-VNXX
12 traffic that is terminated to NCC), Qwest has to be able to charge interexchange carriers
13 for that transport, consistent with Qwest's access tariffs. Qwest cannot do that unless the
14 NECA billing percentages are changed to show the facility is 100% owned by Qwest,
15 which is why there is a reference in Exhibit H to changing the NECA billing percentages.
16 Otherwise, NCC would be permitted to charge interexchange carriers for transport over a
17 facility for which NCC does not have any significant financial responsibility.

18 12. Further, there is no inconsistency with having a 99/1 percent relative use factor allocation
19 that incorporates a 100% allocation for switched access traffic that is exchanged on the
20 local interconnection trunks. The 99/1 is a composite factor that reflects the fact that the
21 trunks, when used for local traffic, are two-way trunks and may carry calls, or at least test
22 calls, originated by NCC. On the other hand, a 100 percent NECA allocation assumes
23 that for interexchange traffic, Qwest will be responsible for all of the access minutes, and
24 must therefore be able to recoup the appropriate switched access transport charges from
25 the individual interexchange carriers.

1 13. Attachment B to this pleading contains the language that Qwest proposes to implement
2 this resolution of the issue. No redlining is shown as this issue was not originally
3 addressed in the negotiations, but rather was raised after the arbitration had commenced,
4 so there was no proposed language on this issue.

5
6 **III. CONCLUSION**

7 14. In conclusion, Qwest respectfully asks the Commission to modify or clarify the Order
8 consistent with the discussion herein.

9 15. DATED this 7th day of July, 2011.

10 QWEST

11 

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Attachment A

7.8.1 While the traffic between Qwest and CLEC is as described in Section 7.1.1 and this Agreement has not been amended otherwise, CLEC will use the following process to determine the amount of traffic originated by Qwest that CLEC is entitled to receive intercarrier compensation from Qwest for its determination.

7.8.1.1 CLEC will determine the total number of non-VNXX minutes terminating to CLEC's end office switch from Qwest each calendar month over the LIS trunk groups interconnecting Qwest and CLEC. That information will be provided to Qwest on a per-trunk group basis.

7.8.1.2 The minutes determined in Section 7.8.1.1 will be identified as end office versus tandem minutes, e.g. minutes terminating to CLEC that were delivered to CLEC from a Qwest end office ("End Office Minutes") versus those minutes terminating to CLEC that were delivered to CLEC from a Qwest tandem ("Tandem Minutes"). Qwest will have the right, once per calendar year, to request reports of the detail and methodology discussed on this Section 7.8.1.2 in order to audit the usage underlying the billed reciprocal compensation minutes of use. At no time shall the total number of minutes of use per in-service DS1 exceed 400,000 on a calendar month basis. The cap shall be applied on an average basis across all DS1's in service. Either party shall have a right to request modification of the cap based on verifiably accurate records. Disputes under this provision shall be handled under the dispute resolution provisions of this agreement.

Attachment B

Proposed Language for Section 7.3.2.2.1. This language would also be modified for Section 7.3.1.1.3.1 (entrance facility) by substituting "Entrance Facility (EF)" for "DTT" where applicable.

Given the existing intercarrier traffic exchange that uses MF signaling, the provider of the LIS two-way DTT facility will initially share the cost of the LIS two-way DTT facility by assuming an initial relative use factor of 1% (CLEC) predicated on CLEC and Qwest previously implementing any necessary changes in the NECA Tariff No. 4 and any other necessary changes in order to implement the agreement regarding charging facility costs to interexchange carriers. That agreement is that Qwest will charge 100% of Qwest's tariffed switched access transport rates for the facilities between Qwest and CLEC to any interexchange carrier's JPSA traffic exchanged between CLEC and Qwest. Until such necessary changes are in effect that implement the Parties' agreement regarding charging facility costs to interexchange carriers, the Parties agree to calculate the initial relative use factor using the terms incorporated in Exhibit H.